

SCOMM

78:18

To: Sam

From: Deb

Re: DEC dissemination of advance copies of regulations.

Just to follow up your conversation with Mead, when he told you that members of the "Alyeska steering committee" were given copies of the draft regulation, pursuant to a "protocol" of that group:

The "steering committee" consists of

- DEC
- Alyeska
- The Prince William Sound Regional Citizens' Advisory Council (PWSRCAC)
- The Coast Guard
- Shippers (BP, Exxon, Chevron, etc.)

Alyeska: Mike Williams of Alyeska told Gail Gatton on January 17 that he had a copy of the regulations. DEC has stated several times that Mary Nordale picked up a copy on January 25. Alyeska's comments were received at DEC on January 27 (Sunday). (The regulations were released generally to folks like us the following week. We got ours on Feb. 1, I think).

PWSRCAC: Shiela Gottehrer is the executive director. Her first copy of the regulations was faxed to her by Alyeska on either January 31 or February 1 (after she told them she had heard they had a copy). DEC sent her a copy on February 1. No "advance" copy was received by this group.

Coast Guard: They received their copy on February 1. No advance copy was received.

Shippers: I did not check with industry; but Arco obviously had an "advance" copy since their comments were also received at DEC on January 27 (they may have gotten their copy from Alyeska).

- Working group

Alyaska's C-Plan

Michelle Brown

Sheila Gott. - Ex. Dir. PhDS

Mike Williams - 16, 17, 18 - met w/ Sander
Alaska

DEL reg-

- Week ^{week # 20*} before last, I asked
Lauri for reg - she said - they
would be released to public last Mon.
↑ 1/28
- Last Mon or Tues Lauri said reg were
pulled from schedule.
- Last Wed or Thurs, Lauri said she would
send me a copy - we rec'd on
Friday, Feb 1
- Alyssa's comments are dated Jan. 28
~~runer~~ rumor is they had them about 1/15)

S	M	T	W	Th	F	S
20	21	22	23	24	25	26
27	28	29	30	31	1	2
3	4					

ALASKA STATE LEGISLATURE

While in Ketchikan
352 Front Street
Ketchikan, AK 99901
907-225-9675



While in Juneau
P.O. Box V
Juneau, AK 99811
907-465-3743

Senator Lloyd Jones

SENATE RESOURCES COMMITTEE

January 28 - February 1, 1991

SENATE RESOURCES

Capitol P.m. 205
465-4907

1:30 pm-3:30 pm
M - W - F

Monday, January 28

Department of Environmental Conservation -
Overview

Wednesday, January 30

Department of Natural Resources -
Overview

Friday, February 1

No meeting

Sen. C. H. Jones

DEL "567" Regs. Chronology

Jan Th 10 L. Adams memo - Recommends supervising pks.
 F 11
 S 12 Kelton approves Adams memo
 S 13
 M 14
 T 15 Sundon approves Adams memo
 W 16
 Th 17
 F 18
 S 19
 S 20 ~~Adams memo - Kelton approves~~
 M 21
 T 22
 W 23 - ? - Adel DEL for regs - told "next week" (M^{88th})
 Th 24
 F 25
 S 26
 S 27 Alyaska comments drafted
 M 28 Sen. Res. ¹¹³⁰ - Treadwell testifies - "not piecemeal"; Alyaska comments sent ^{1:21}
 T 29
 W 30 Staff O+G Comm/DEL - 11:00
 Th 31 Re-regulated regs ^{Proposed} - working Drafts available
 Feb. F 1 Received regs ^{Proposed} public notice date (Adams memo)
 S 2
 S 3
 M 4
 T 5
 W 6
 Th 7
 F 8

PERSONNEL RESOURCES:

There are presently 17 FTEs dedicated to C-plan reviews: 12 full time and 11 part time. The remaining FTEs will be taken from the other programs in OPC.

FULL TIME C-PLAN REVIEW: (12)

SERO

Dan Hopson

SCRO

Michael Munger
Matt Carr
Bill Wright
Ted Moore
Kirstin Ballard
Ken Rogowski
Kevin O'Shea
Dennis Lundine

NRO

Adam Owen
Robert Watkins
Jim Nolke

PAK T TIME C-PLAN REVIEW: (11)

SERO

Roy Warren (30%)
Jim Gebhard (30%)
Jim Jones (30%)

OTHER DUTIES

Spill Drills, Response
Spill Drills, Response
Spill Drills, Response

SCRO

Joe Sautner (80%)
Marilyn Heiman (80%)

Spill Drills
Spill Drills

NRO

Deborah Alberg (60%)
Robin Little (35%)

Leslie Simmons (32%)

Eleanor Hung (28%)

Ed Meggert (25%)

Larry Katkin (50%)

Spill Drills
Spill Drills, Response, Site
Investigation
Spill Drills, Response, Site
Investigation
Spill Drills, Response, Site
Investigation
Spill Drills, Response, Site
Investigation
Spill Drills, Response

OTHERS THAT COULD BE ADDED TO THE EFFORT: (5)

SERO

Gus Van Vleit

SCRO

Renee Evans

Wayne Leitner

Doreen Sullivan-Garcia

NRO

Catherine Girard

Because these additional people work in different OPC programs such as spill drills, response, and site investigation, these programs would temporarily suffer during their reassignment to the contingency plan review effort.

CONTINGENCY PLANS, INDIVIDUAL FACILITIES/VESSELS

<u>PLAN</u>	<u>FACILITIES/VESSELS</u>
Alaska Clean Seas	8 Production Facilities
Alyeska: Prince William Sound	51 Tankers
Cheveron Cook Inlet Tankers	2 Tankers
C.I.S.P.R.I	10 Production Facilities
Crowley Maritime Corp.	60 Barges
Delta-Western Barges	2 Barges
Foss Maritime Barges	7 Barges
United Marine Tug and Barge	5 Barges
-----	-----
approx 225 other plans	approx 250 other facilities/vessels

DEC TIMELINES
IMPLEMENTATION OF HB 567

Mid-February	Initiation of Working Group etc.
March-June	Public Workshops
March 25	C-plans for newly regulated facilities due
June 1	C-plan amendments under HB 567 due
July 1	Public Notice of Regulations
July 1 -- August 31	Public Hearings
September 1	Final Changes
October 1	Department of Law Review
November 1	Lieutenant Governor
December 1	Regulations take effect
February 1, 1992	Amendments to comply with regulations due

Re: Agency Review - see #9 in AG
(Blankenship) memo...

~~Eric~~ -ERIC

Sam:

The following people will probably be on teleconference this morning.

Michelle Brown Executive Director of Citizens Oversight Council -- she used to work for DEC and knows about the mechanics of C-plan review.

Shiela Gotterher -- Head of Prince William Sound Regional Citizens Advisory Council -- also on Alyeska "steering committee", so can comment on C-plan review 2

Mike Frank -- A.G.'s office, Anchorage -- DEC's advice on June 1, etc.

Larry Smith -- Cook Inlet Regional Citizen's Advisory Council (CIRCAC) -- very interested in regs, schedule, standards, etc.

Andy Mack -- Also of CIRCAC -- also very interested in all this

T/C NO: 91-03-029
DATE: TUESDAY, MARCH 12, 1991
SPONSOR: SENATE SPECIAL CMTE. ON OIL AND GAS
SUBJECT: REVIEW OF CONTINGENCY PLAN WITH DEC
MODERATOR: LORNA STEELMAN
SITE: KODIAK LIO

PARTICIPANT LIST #1

TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. (WAYNE COLEMAN)			

ORIGINAL
* SENT: 03/12/91 TIME: 10:54
* FROM: LIOCLAI
* SUBJECT: 91-03-029; PL; CONT. PLAN; 3-12
* PRINT DATE: 03/12/91 TIME: 10:54
*

SUBJECT LINE TO READ: TC NO.; PL\FS; SHORT SUBJECT; DATE

T\O NO: 91-03-029
DATE: 03-12-91
SPONSOR: S SPECIAL COMMITTEE ON OIL AND GAS
SUBJECT: REVIEW OF CONTINGENCY PLAN WITH DEC
MODERATOR: LANI
SITE: ANCHORAGE

PARTICIPANT LIST

TO TESTIFY

NAMES\ REPRESENTING	ADDRESS	PHONE	BILL NO.
1. LARRY SMITH\ORA			
2. PATTI SAUNDERS\ALASKA CENTER FOR THE ENVIRONMENT			

3. MIKE FRANK\DEPT. OF LAW\ MAY WANT TO TESTIFY

4. MICHELE BROWN\ MAY WANT TO TESTIFY

5.

6.

TO OBSERVE:

NAME\ REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			
4.			
5.			

1.

2.

3.

4.

5.

BACK UP NUMBER: 561-1199
EMAIL ADDRESS: LIOCLAI

*Because
legislator
created her
group (Citizens
Oversight
Council)*

91-03-029

DATE: MARCH 12, 1991
SPONSOR: SENATE SPECIAL COMMITTEE ON OIL AND GAS
SUBJECT: DEC OIL SPILL PLAN
MODERATOR: CHARLENE
SITE: HOMER

PARTICIPANT LIST

TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. MIKE O'MEARA, BOX 1125, HOMER	99603	235-7767	
2. GAIL PARSONS, BOX 2397, HOMER	99603	235-3978	
3.			
4.			
5.			

OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			

That's 2
members of

"working group"

- Larry Smith

- Ak Ctr Env

who think response reqs.
should go forward.

SUMMARY OF FY 91 LEPC FUNDING AWARDS

City/LEPC	Phase*	Requested	Proposed
Anchorage	I/II	20.4	13.4
Fairbanks	I/II	13.1	9.0
Juneau/Haines/Skagway	I	25.0	22.0
Kenai	II	45.75	30.0
Ketchikan	I/II	11.0	8.0
Kodiak	I/II	30.0	9.3
Matanuska-Susitna Borough	I/II	27.65	13.0
Prudhoe Bay	I	10.0	.5
Sitka	II	18.29	5.3
Unalaska	I	12.5	2.0
Whittier	I/II	4.7	2.5
Yakutat	I/II	30.0	5.0
Totals		247.39	120.0

Phase I: LEPC Formation

Phase II: Emergency Plan Development

Phase III: Emergency Plan Implementation

[G:\SPPM\SEPC\GRANT.TAB]

MEMORANDUM**State of Alaska****Dept. of Environmental Conservation-State Pipeline Coordinator's Office**

TO: John Sandor
Commissioner
Mead Treadwell
Deputy Commissioner

DATE: March 11, 1991

FILE NO: Reading File

TELEPHONE NO: 278-8594

FROM: Simon Mawson
Regional Manager

SUBJECT: Alyeska Pipeline
Oil Spill Prevention
and Contingency Plan

We have been reviewing the Alyeska Pipeline Service Company Oil Discharge Prevention and Contingency Plan in accordance with AS46.04.030. The matters of prevention and realistic maximum discharge have been addressed as follows:

PREVENTION

In the interests of minimizing duplicity of effort, we are requiring Alyeska to include a summary of prevention measures already required by both State and Federal Government. It is not practical for Alyeska to include detailed descriptions because many volumes would be required. Additionally, our agency does not have the expertise to adequately review many of these prevention measures.

Some examples of prevention measures are:

- 1) installation of remotely controlled shut off valves to control spills
- 2) hydrotesting of the pipeline
- 3) radiographic testing of all girth welds
- 4) design of the pipeline to withstand seismic loads

- 5) the use of "smart pigs" to check for internal corrosion and deformation
- 6) selection of materials appropriate for environmental conditions
- 7) construction of containment dikes around pump station tanks
- 8) provision of emergency shutdown devices
- 9) covered employees subject to pre-employment, random and post accident drug testing

REALISTIC MAXIMUM DISCHARGE

Alyeska has conducted an extensive risk analysis to determine oil spill probabilities. This analysis is reported in terms similar to the probabilities of floods, etc. That is the probability of an event occurring in some time. i.e. 5 year floods, 10 year floods, and 100 year floods.

The 5 year spill is a 4,000 barrel spill (170,000 gallons) and the 45 year spill is a 16,000 barrel spill (700,000 gallons). Equipment to contain the 5 year spill is staged at many different locations throughout the pipeline corridor. In the event that a large spill occurs, a tiered response will occur. Equipment from the many separate staging areas will be deployed as needed.

cc: Ed Barber
Jerry Brossia
Phil Brna
O.D. Odsather
Tony Braden

That's 2

members of

"working group"

- Larry Smith

- Ak Ctr Env

who think response reqs.
should go forward.

Oil and Hazardous Substance Release Response Fund
Summary of Allocations: FY 91 - 92*

	FY 91	FY 92	FY 93	Notes
PRIOR FY CARRY FORWARD		17,207.9	9,012.9	
PROJECTED SURCHARGE REVENUE		28,500.0	27,500.0	
TOTAL FY FUNDING AVAILABLE		45,707.9	36,512.9	
ANNUAL 470 BUDGET ALLOCATIONS				
State and Regional Contingency Planning	461.9	395.9		
Spill Prevention, Response, Planning, Safety, Cleanup & Cost Recovery	4,031.0	3,934.3		
State Emergency Response Commission (SERC)	430.0	299.9		
Local Emergency Planning Committees (LEPCs)	120.0	600.0		
Response Office, Depots and Corps	3,169.9	2,911.4		
Spill Technology Council		296.1		
Site Investigation, Safety, Cleanup & Cost Recovery	2,632.9	3,695.0		additional site funds (1260) and staff personnel costs (380)
Kenai Cleanup Project	940.0	807.0		authorizes use of 470 funds as needed as alternative to billing
Exxon Valdez: Spill Cleanup	8,707.3	4,126.0		
Exxon Valdez: Assessment and Restoration*	11,402.0	11,823.3		
Citizen's Oversight Council	220.0	500.0		
Exxon Valdez litigation	0.0	7,306.1		support costs to continue litigation as needed
Unallocated Spill Reserve (carry forward)	17,207.9	9,012.9		
TOTAL FY Allocations	49,322.9	45,707.9		

* Note: Sec. 20 of HB 75 (Operating Budget) contains the appropriation of \$28,500,000 from the general fund to the Oil and Hazardous Substance Release Response Fund.

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman

Senator Drue Pearce, Vice-Chairman

Senator Bettye Fahrenkamp

Senator Lyman F. Hoffman

Senator Dick Shultz



P. O. Box V, State Capital
Juneau, AK 99811
(907) 465-3711

AGENDA FOR MARCH 12 MEETING

- I. SJR 21
 - A. Senator Uehling
 - B. Commissioner Heintz
 - C. Other witnesses
- II. DEC - Overview of HB 567 regulations issues
 - A. Review of contingency plans for compliance with HB 567
 - 1. Agency's plan
 - a) Receive amendments on June 1
 - (1) Newly regulated operations (exploration, production, pipelines) C-plans due March 25
 - b) Legal status:
 - (1) If operation has approved (old) plan prior to June 1, may continue to operate legally until
 - (a) Expiration of plan approval or
 - (b) New review by DEC under June 1 law
 - (2) Newly regulated operations will be reviewed by June 1 ?
 - c) Operator status
 - (1) Must have contingency plan meeting standards of new law on June 1, whether DEC has reviewed amendments or not.
 - (2) Must actually have equipment to meet planning standard on June 1.
 - d) Prioritize plans according to risk
 - e) Review plans
 - 2. Review of plans
 - a) What does C-plan review entail? Department's experience:
 - (1) Example of hardest type -

Alyeska; shipper

(a) Time, resources needed

(2) Example of easiest -- ??

(a) Time, resources needed

3. Personnel and other resources available

a) How many people, statewide, to review plans

b) Where?

c) Other duties?

d) Training

e) Available talent pool?

4. Current status

a) Backlog?

b) Have some operations already submitted amendments? Will some, before June 1?

c) Newly regulated industries? Status?

5. Estimate of person/hours or length of time necessary to review.

a) Total number of plans

b) Types

c) "Clusters"?

B. Regulation adoption schedule

1. Currently plan to have new regulations in force about December

2. All plans approved between June 1 and adoption of regulations must be re-reviewed when regulations take effect.

a) Will mean duplicate effort necessary

3. Members of public have encouraged DEC to go ahead with adoption of regulations

4. Fishermen and others complaining that formal public review process will be during summer months

At some point, ask them
who is here from the
department.

We asked for program
staff - I understood

Harry Dietrich
Dan Easton

would be here (maybe
they are, I don't know
them).

FY 92 RESPONSE FUND ALLOCATION SUMMARY
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPILL PREVENTION, RESPONSE, PLANNING,
SAFETY, CLEANUP AND COST RECOVERY

PURPOSE

Provide for the Department's comprehensive program for regulation of industry contingency plans for oil and hazardous substance spill prevention and response, and response to spills.

FUNDING

\$ 3,934.3 thousand

○ OPERATING

\$ 3,684.3

Personnel	2,267.3 (43.5 FTE)
Travel	220.0
Contractual	933.0
Supplies	44.0
Equipment	220.0

○ NON-OPERATING

\$ 250.0

DESCRIPTION

There are seven primary activities addressing spill prevention and response under this allocation: (1) development of spill prevention and contingency plan regulations, (2) review and approval of industry spill prevention and contingency plans, (3) compliance inspections of facilities and vessels, (4) conduct of spill response exercises to test industry response readiness, (5) certification of proof of financial responsibility, (6) a survey of non-crude oil bulk fuel facilities, and (7) cost recovery actions. The FY 92 Response Fund allocation provides for 43.5 staff statewide and necessary travel and contractual funds to accomplish these program objectives.

Recent amendments to AS 46.04.030 required that oil spill prevention measures be incorporated into industry contingency planning efforts, established new requirements for spill control and response, and added additional facilities (pipelines and onshore oil exploration and production) required to have approved spill prevention and contingency plans. Oil spill prevention regulations must be prepared and contingency plan regulations revised to implement these new requirements. The Department will use the FY 92 Response Fund allocation to complete the development of draft spill prevention and contingency plan regulations and conduct an extensive public review process.

The Department is required to review over 250 oil spill prevention and contingency plans once every three years. These 250 plans cover over 400 facilities and vessels. The plans identify the management structure and equipment that a facility or vessel operator has in place for responding to oil spills. The Department annually conducts inspections of approximately 100 facilities and 130 vessels to ensure that owners are in compliance with their approved contingency plans and that the equipment is in place for rapid deployment in the event of a spill.

The Department also has the authority to require two spill response exercises per year at each facility or vessel with an approved plan. The FY 92 Response Fund allocation will allow the Department to conduct two scheduled spill drills per year at each major facility and a minimum of one drill every three years for all other facilities and vessels holding state-approved contingency plans (approximately 100 drills per year). The spill response exercise may range from calling emergency notification lists to ensure that contact numbers are current, to full deployment of all spill response equipment and personnel. Based on the contingency plan holder's performance during the spill drill, the Department may require revisions to improve the plan or schedule additional exercises to ensure that the operator has a workable, effective response capability.

The Department will also inspect the structural integrity of facilities, vessels and pipelines, as required by State law. The allocation provides for contractor assistance with structural integrity inspections.

In addition to approving oil discharge prevention and contingency plans, the Division is required to certify proof of financial responsibility for facilities and vessels carrying petroleum products as cargo. Recent amendments to AS 46.04.040 will require revisions to the Department's regulations regarding proof of financial responsibility during FY 92. The Division will use this allocation to prepare the new regulations and ensure that approximately 400 facilities and vessels are able to pay for the cleanup costs of an oil spill.

The allocation will be used to complete a study of the contingency requirements for non-crude oil storage facilities required by the Legislature under HB 567.

Non-operating funds from the allocation will also provide for a Reimbursable Services Agreement (RSA) with the Department of Law for assistance in recovering response costs from responsible parties.

HB 567 REGULATIONS ISSUES

The following questions address significant issues in contingency planning, prevention and financial responsibility and are included for your consideration. Comments on these and any other issues not listed are welcome.

- 1) What role, if any, should Citizens' Oversight Councils play in the actual response to a catastrophic oil spill?
- 2) What should be the mechanism for including public participation in oil spill response activities?
- 3) What role should oil spill response cooperatives play in a response, and how should they be governed?
- 4) How should the "realistic maximum oil discharge" (RMOD) be calculated for:
 - * an oil terminal facility?
 - * an oil tanker or oil barge?
 - * an onshore or offshore exploration facility?
 - * an onshore or offshore production facility?
 - * a pipeline?
- 5) What should be the criteria for judging the operational capabilities of oil spill response equipment? How should the effectiveness of equipment be calculated?
- 6) What are examples of prevention measures that can be taken to reduce the probability of a spill or the size of a spill?
- 6) What should be the criteria for judging whether a prevention measure should be required, or should be optional and qualify for "credit" (a reduction in planned response capability)?
- 7) What should be the amount of "credit" given for each prevention measure (by what amount should planned response capability be reduced?)
- 8) What is the maximum amount of "credit" that should be given for prevention measures?
- 9) Besides insurance, self-insurance, bonds and guarantees, what other forms of proof should be allowed by the state to ensure that a company can pay for the clean up of a spill?

SECTIONAL ANALYSIS

DRAFT HB 567 OIL SPILL CONTINGENCY PLAN REGULATIONS

18 AAC 75.080. DISCHARGE NOTIFICATION REQUIRED.

This section will define the requirements for reporting oil and hazardous substance spills ~~to the department by the person in charge of a facility or operation.~~ It modifies current requirements to require reporting of all spills into contained areas with a volume of greater than 55 gallons.

18 AAC 75.300. APPLICABILITY.

This section will define what operations are to be covered by the regulations: oil terminal facilities, pipelines, exploration and production facilities, and tank vessels and barges. It will also provide a method to exempt a tank vessel or oil barge from the contingency plan requirement if it is conducting or available only for oil discharge response operations.

18 AAC 75.305. APPLICATION FOR APPROVAL.

This section will describe the process of applying for a contingency plan approval. An application form, provided by the department, must be completed by the applicant and submitted with the plan at least 65 days prior to the commencement of operations.

18 AAC 75.310. APPLICATION FOR AMENDMENT.

This section will explain the procedures for the submission of contingency plan amendments. When there is a change in operations covered by the plan, the operator's performance under the plan, or the operator's discharge experience, then an amendment to the plan will be required. Upon review of the amendment, if the department finds the plan holder's ability to respond to an oil spill is not diminished, the department will consider the amendment a routine plan update and approve it without further review within 10 days. If the department believes that the plan holder's ability to respond to an oil spill will be diminished by the amendment, the plan holder will be notified within 10 days and a 65 day review process will commence.

18 AAC 75.315. APPLICATION FOR RENEWAL.

This section will define the contingency plan renewal process. A contingency plan will be renewed every three years. An application for renewal will be received by the

department within sufficient time to allow a 65 day review period. If no changes have been made the expired plan will be referenced on the renewal application.

18 AAC 75.320. CONTINGENCY PLAN CONTENTS.

This section will provide a detailed summary of the elements to be included in a contingency plan. The plan itself will consist of four sections: an emergency action plan, an operation overview and environmental analysis section, a response procedures section, and appendices. This section will list and describe the information required for each of the four sections.

18 AAC 75.340. SPILL VOLUME PREPAREDNESS STANDARDS.

This section will specify the response planning standards required under revised statute for each category of operations which require contingency plans. These standards are defined in terms of volumetric amounts and time frames to be used in determining the quantity of spill response resources that must be available to the plan holder. The standard for oil terminal facilities will reflect recent planning experience in factoring the increased risks from active volcanos, landslides or other events. The standard for pipelines and exploration and production facilities will reflect realistic maximum discharges that could be experienced during failures under peak flow conditions. The standards for tank vessels and oil barges will exempt those vessels or barges used solely for lightering recovered oil during a cleanup operation. The standard for vessels and barges used for transport of oil will differ depending on whether the cargo is crude or noncrude oil. The "regions of operation" referred to in this section will be defined in 18 AAC 75.395.

18 AAC 75.345. CONTAINMENT, CONTROL, AND CLEANUP REQUIREMENTS.

This section will require that mechanical methods be specified to meet the time and volume planning standards set out in Section 340. These standards will determine the types and amounts of boom and related equipment necessary. Equipment used in water will be capable of operating effectively in rough weather. A plan may require that normal operations be temporarily suspended if weather or other natural conditions deteriorate to the point that mechanical cleanup equipment cannot be operated effectively should a spill occur.

This section will also stipulate surveillance and tracking measures to be implemented by the plan holder in conjunction with the spill response. The number and operational capabilities of boom tending and deployment vessels, lightering vessels, pumps, connecting valves and water separation devices will be included in the plan. Specific equipment and personnel will be identified to be used for the exclusion of spilled oil from sensitive environmental areas. The plan will demonstrate a realistic timetable for the deployment of exclusion equipment before oil reaches sensitive areas. Plans will

include procedures to stop spills at exploration and production facilities and make allowance for suspension of operations in sufficient time to drill a relief well in locations with broken or pack ice.

18 AAC 75.350. REQUIREMENTS FOR TRANSFERS BETWEEN PLAN HOLDERS.

This section will detail requirements for temporary transfers (not to exceed 30 days) of ~~personnel or equipment between plan holders.~~ ~~The department will, in its discretion,~~ approve these transfers after consideration of the net impact the transfer would have. Major considerations will involve the ability of the provider to respond to a spill if the specified equipment is transferred to the site of another plan holder's spill response. Transfers will not be allowed if a provider's response capacity would be reduced to less than 40 percent of the response planning standard unless a major or catastrophic spill of over 10,000 gallons to inland waters, or 100,000 gallons to coastal waters occurs.

18 AAC 75.355. TRAINING.

This section will specify training standards necessary for spill response personnel identified in the plan. Applicable state and federal occupational safety laws and training requirements will be enforced for personnel working at a spill response site. In addition, training of the plan holder's personnel in the specifics of the contingency plan, including equipment operation and maintenance, response organization, and command procedures will also be required.

18 AAC 75.360. DEPARTMENT REVIEW PROCEDURES.

This section will outline review procedures that will be used by the department in evaluating a plan prior to approval or disapproval. The department will have 10 days to determine that a plan and application are complete before beginning the evaluation process. Under Alaska statute, the department has 65 days to evaluate a plan and make a decision. Plan review will be consistent with the Alaska Coastal Management Program. Reviews will be coordinated with the Departments of Fish and Game, Natural Resources and, for facilities or operations within the coastal zone, the applicable resource districts. Public notice inviting comments on the plan will be published within the areas that would be affected by the facility or operation and will also be considered in the review process.

18 AAC 75.365. DEPARTMENT DECISION.

This section will describe the process utilized by the department following plan review and evaluation. The department may, in writing, approve, disapprove or conditionally approve a plan. An approval decision will be effective for no more than three years

after issuance.

18 AAC 75.370. PROOF OF APPROVED CONTINGENCY PLAN.

This section will require the owner/operator of a terminal facility to verify that a tank vessel or oil barge is operating under an approved contingency plan before loading or unloading oil at the facility. Vessel or barge operators will verify, on a form provided by the department, that they are operating under a current approved contingency plan and that a copy of the emergency action section of the plan is on board the vessel. The operator will also produce for inspection the current contingency plan approval certificate. The facility owner/operator will submit the certification form to the nearest department district office within seven days. Vessel/barge operators that fail to demonstrate that they are operating under an approved contingency plan will not be allowed to load or unload oil at the facility. The facility owner/operator shall notify the department of this denial on the first working day after the incident.

18 AAC 75.375. CONTINGENCY PLAN MAINTENANCE AND PERFORMANCE REQUIREMENTS.

This section will require a contingency plan holder to notify the department within 24 hours, in writing, of any changes to the plan or the operations it covers that would significantly affect the plan holder's response capability. The department may modify or revoke plan approval based on its analysis of the changes. This section will also require the plan holder to regularly review and update the information in the plan and verify that communications and other equipment are maintained in operational condition.

18 AAC 75.380. INSPECTIONS.

This section will authorize the department to make announced and unannounced inspections to verify compliance with these regulations.

18 AAC 75.385. DISCHARGE EXERCISES.

This section will authorize the department to conduct discharge exercises (spill drills) to test the adequacy of contingency plans. It will limit the number of spill drills required of any plan holder to two per year, unless the department judges the plan holder's drill performance to be inadequate. In these cases, the department will require additional drills until satisfied, or will, in its discretion, modify or revoke the plan approval. The section also enables the department to consider industry-initiated training exercises as drills under certain conditions.

18 AAC 75.385. FAILURE TO COMPLY.

This section will authorize the department to revoke or modify a contingency plan approval, or take other necessary action, in the event of failure to comply with or implement the provisions of a contingency plan. The plan holder may request a hearing to review a decision to revoke a contingency plan.

18 AAC 75.395. REGIONAL MASTER CONTINGENCY PLAN.

This section will establish 10 regions within the state for the purpose of preparing Regional Master Oil and Hazardous Substance Discharge and Prevention Contingency Plans and will provide for the adjustment of the seaward boundary of those regions based on the department's analysis of the impact to state resources from an oil discharge.

18 AAC 75.900. DEFINITIONS.

This section will define certain terms for the purpose of these regulations.

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman

Senator Drue Pearce, Vice-Chairman

Senator Bettye Fahrenkamp

Senator Lyman F. Hoffman

Senator Dick Shultz



P. O. Box V, State Capital

Juneau, AK 99811

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February 13, 1991

To: Members, Senate Special Committee on Oil and Gas

From: Sam Cotten, Chair

As I announced this morning, I have scheduled an informal working group meeting with representatives of the Department of Environmental Conservation to go over the department's proposed implementation of HB 567. The meeting will be in the House Labor and Commerce committee room, Room 17, at 10:00 Friday morning, February 15.

I have attached copies of HB 567, the department's draft regulations, and a press release issued by the department outlining the proposed schedule for the regulations.

Below are substantive comments on the proposed regulations for Oil Discharge Prevention and Contingency Plans which were faxed to ARCO on January 25, 1991. The comments do not address specific line-by-line concerns but rather address major issues identified which will be either impossible to comply with or impossible to enforce and may result in less protection for the environment.

The problems we have identified are built into the structure of the proposed regulations and cannot be cured by minor revisions. Therefore, we request at least one work session with the regulation drafters prior to further dissemination of the proposed regulations.

Spill Volume Preparedness Standards

The clean-up levels referenced in § 340 are beyond the current state of technology for spill clean-up at many facilities. If plan holders cannot meet these clean-up levels then by statute (AS 46.04.030(b)), they will be required to cease operations on June 1, 1991.

The spill volume preparedness standards include no provision for reductions based on oil discharge prevention measures as contemplated by AS 46.04.030(m).

Plan Approval and Notice Process

The plan approval and review process would be lengthy and cumbersome and in effect has no limitation as to time frame. The delays made possible by the provision for tolling the 63 day review period upon information requests are exacerbated by allowing information requests by local governmental entities, both formal and informal. If plan approval falls under the Alaska Coastal Management Program, Consistency Reviews will be required by existing ADGC regulations and should not be addressed here. Further, the Plan itself does not appear to be an activity affecting the coastal zone.

Contingency Plan Contents

The required contents of the plan make it so voluminous and detailed as to limit its effectiveness as a "usable working plan for oil discharge prevention, control, containment, cleanup and disposal". Particularly troublesome are the § 320(d)(2) analyses, which appear to require a separate environmental analysis for each spill location, volume, and weather condition. These analyses could encompass thousands of different response situations.

Requiring the inclusion of entire contracts and detailed training records for individuals identified in the spill plan is unnecessary and nonproductive. When there are more appropriate mechanisms available to assure contractual obligations and compliance with training requirements.

Containment, Control and Clean-up Requirements

Special requirements are imposed at § 320(d)(2)(F) and § 345(a) for "environmentally sensitive areas" and "areas of public concern." As defined at § 900, these special areas could be construed to cover every area of the state. The requirement of dedicated equipment and personnel would be unworkable if these special sites were not kept to a minimum.

Dedicated equipment and personnel for the protection of a sensitive environmental area or an area of public concern forecloses any flexibility throughout the state in the event of a catastrophic discharge.

Requirements for Transfers between Plan Holders

Stipulations on levels and approval authority for loan of cleanup equipment to sites experiencing a spill limit the flexibility and capability of both the private and public sector within the state.

ISSUES SURROUNDING HB 567 REGULATIONS

I. Timing alternatives

A. Statute and regulations by June 1

1. Is it still possible to review and adopt response regulations by June 1?
2. What went into decision not to do this?

B. Statute June 1, regulations December (DEC plan)

1. What will be required of industry on June 1?
 - a) Contingency plans?
 - b) Actual capability / equipment?
 - c) Financial responsibility?
 - d) Department of law view?
 - e) Industry view?
2. Proposed schedule -
 - a) Feasible?
 - b) Review of regulations during summer months?

C. Delay of statute - change the statute

1. Fear that if open up law, more amendments will be made
2. Public concern - citizens' groups, etc.

2. What are DEC's staffing plans for the reg project?
3. What will be required of industry on June 1?
 - a) Contingency plans?
 - b) Actual capability / equipment?
 - c) Financial responsibility?
 - d) Department of law view?
 - e) Industry view?
4. Proposed schedule -
 - a) Feasible?
 - b) Review of regulations during summer months?
 - c) Doesn't proposed schedule delay implementation of the law for nearly a year?
5. Workshops:
 - a) Who is invited? How is that decided?
 - b) Will DEC pay travel?
 - c) Can public participate, or is it "invitation only?"
 - d) Why not notice up regs before the workshop process begins, so that there is a stated "close" to the review process?

C. Delay of statute - change the statute

1. Fear that if open up law, more amendments will be made
2. Public concern - citizens' groups, etc.

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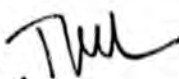
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MEMORANDUM

February 14, 1991

SUBJECT: Implementation of "Oil Spill Legislation" (HB 567 - ch. 191, SLA 1990) (W.O. 7LS-0764)

TO: Senator Sam Cotten

FROM: Terri Lauterbach 
Legislative Counsel

You have asked what the responsibilities of the oil industry^{1/} are under ch. 191, SLA 1990, (hereinafter referred to as "the new law") assuming that no regulations implementing the new law have been adopted by DEC by the new law's applicability date (June 1, 1991). You have also mentioned that you have heard that DEC might simply issue interim permits to allow the oil industry to function under existing contingency plans until new regulations are adopted next winter.

In our opinion, the statutory standards and applicability section of the new law are quite clear. The new law succeeds admirably in giving the oil industry clear notice of its responsibilities.^{2/} Few, if any, interpretive regulations are needed with respect to enforcing the new standards for contingency plans and financial responsibility requirements. While some current regulations are superseded by the new law and cannot be enforced, many current regulations need no changes. For those subject areas for which there are no regulations before June 1, 1991, DEC should simply use the standards contained in the new law when deciding whether to approve or

^{1/} This memo will use the term "oil industry" as a shorthand way of referring to persons required to provide oil spill prevention and contingency plans under AS 46.04.030 and to show proof of financial responsibility under AS 46.04.040. However, persons covered by those statutes may include municipalities and state agencies as well.

^{2/} Based on my observations at numerous meetings during the course of drafting HB 567, it was my distinct impression that a major thrust of the bill was to provide a reliable basis for oil industry planning. It was apparent to me that the oil industry preferred clear statutory standards over general guidelines that would have involved agency discretion. It was also my impression that the legislature did not want to leave the standards up to the agency to set in the uncertain arena of the regulations process.

disapprove applications relating to contingency plans and financial responsibility. The agency does not need regulations to enforce a law that is already clear.

Because the oil industry is bound to comply with the standards contained in the new law regardless of whether DEC adopts regulations that "parrot" those standards, it is our opinion that:

(1) Persons wishing to **commence operations** governed by AS 46.04.030 - 46.04.040 must submit complete applications under both sections at least 65 days before commencing operations. If operations will commence on or after June 1, 1991, the applications must show that the new operations will be in compliance with the standards of the new law. If operations will commence before June 1, 1991, the application must show compliance with previous law; however, a second application would have to be submitted before June 1, 1991, showing compliance with the new law.

(2) Persons who are **continuing operations** that are already in compliance with AS 46.04.030 - 46.04.040 (as they read before they were amended by the new law) must submit complete applications to DEC before June 1, 1991, showing that they will be in compliance with the new law on June 1, 1991.

As for the possibility of interim permits, we can find no authority for DEC to issue an interim permit to allow a member of the oil industry to function under an **existing** contingency plan. The new law is quite clear in requiring that contingency plans meet the new law's requirements on and after June 1, 1991. However, DEC could grant a variance, upon appropriate documentation of need under 18 AAC 75.315, or issue conditional approval of a contingency plan, but only after a **new** one has been submitted that purports to demonstrate compliance with the new law.

DISCUSSION

Regulations, in general

As a backdrop to the following discussions of contingency plans and financial responsibility requirements, we should consider the general nature of regulations.

The definition of "regulation" appears in AS 44.62.640(a)(3), which provides, in pertinent part,

(3) "regulation" means every rule, regulation, order, or standard of **general application** or the amendment, supplement or revision of a rule, regulation, order or standard adopted by a state agency to **implement, interpret, or make specific the law enforced or adminis-**

tered by it, or to govern its procedure, except one that relates only to the internal management of a state agency...(emphasis added)

Case-by-case determinations, based on characteristics unique to each case, are not "general application[s]" requiring regulations. Laws that are already specific do not need regulations to "interpret" them or make them "specific" before an agency can enforce them.^{3/} Persons must comply with laws, regardless of whether there are regulations "implement[ing]" them, as long as the laws are detailed enough to make the persons' duties clear. A lack of regulations, when duties in a law are clear, does not exempt a person from complying with a law.

Regulations simply are the way for an agency to exercise quasi-legislative power that may have been delegated to it by the legislature. If none has been delegated, no regulations required.

Contingency Plans.

The new law at issue in this memo clarified some provisions of AS 46.04.030 and added a number of new subsections to AS 46.04.030, most of which set new standards for contingency plans. While the new law had an immediate effective date, it also contained a "Transitional Provisions" section that delayed the applicability of certain amendments as follows:

AS 46.04.030(k) - (m), as enacted..., do not apply to oil discharge prevention and contingency plans until June 1, 1991. On and after June 1, 1991, a contingency plan must comply with AS 46.04.030(k) - (m), as enacted..., regardless of whether the contingency plan is due for renewal under AS 46.04.030(d)...^{4/}

AS 46.04.030(k) - (m), whose applicability was delayed by this section of the new law, contain the requirements that must be met by a contingency plan holder in terms of how much equipment, personnel, and resources the plan holder must have on hand or available to it under contract for responding to an oil discharge. For the most part, they require plan holders to demonstrate in their plans that they can contain or

^{3/} It is important to note that DEC enforces **laws** relating to the environment, not just regulations. See, for instance, AS 46.03.850, which provides that the department may issue compliance orders when "a person is violating or is about to violate a provision of this chapter or AS 46.04, or a regulation or lawful order of the department..."

^{4/} See sec. 32(a), ch. 191, SLA 1990.

control, and clean up various specified sizes of crude oil discharges within 72 hours.^{5/} Discharges of noncrude oil are subject to a 48-hour contain/control standard and a "shortest possible time" cleanup standard.^{6/}

In our opinion, the 72-hour and 48-hour requirements are specific enough that they can be enforced by DEC without interpretive regulations. These are not statutory requirements that leave a lot of room for agency interpretation.^{7/}

Where the new law is not specific, it is doubtful that any new regulations would be helpful. For instance, the new law refers in AS 46.04.030(k)(3)(C), (k)(4), and (k)(5) to "the shortest possible time." This is not as specific as saying "48 hours" or "72 hours," and it might seem to require an interpretive regulation. However, it is instructive to note that the previous law required a showing that a discharge could be contained, cleaned up, and mitigated "within the shortest feasible time."^{8/} In adopting a regulation setting approval criteria to implement this somewhat nonspecific requirement, DEC simply parroted the statute. 18 AAC 75.355(1) provided that applicants had to have ready access to sufficient resources to be prepared to contain, clean up, and mitigate potential oil discharges "within the shortest feasible time." Similarly, any regulation that might be adopted to implement the new requirement of "shortest possible time" is likely to simply parrot the new law.

Another possibly troublesome phrase used in the new law is "realistic maximum discharge." In addition to the general 72-hour requirement for specified sizes of

^{5/} See AS 46.04.030(k)(1) where the size of discharge from an oil terminal facility covered by the 72-hour requirement is an amount equal to the capacity of the largest oil storage tank at the facility.

See also AS 46.04.030(k)(3) which applies the 72-hour requirement to tankers with various capacities in relation to discharges of either 50,000 barrels or 300,000 barrels.

^{6/} See AS 46.04.030(k)(4).

^{7/} Compare to AS 46.03.070, under which no standards exist until adopted by the department:

Sec. 46.03.070. POLLUTION STANDARDS. After public hearing, the department may adopt standards and make them public and determine what qualities and properties of water indicate a polluted condition actually or potentially deleterious, harmful, detrimental or injurious to the public health, safety or welfare, to terrestrial and aquatic life or their growth and propagation, or to the use of waters for domestic, commercial, industrial, agricultural, recreational, or other reasonable purposes.

On the other hand, this does not mean that we think DEC has no authority to adopt regulations in this area, only that regulations are not necessary for enforcement of the new law to occur. DEC is not prohibited from repeating statutory requirements in its regulations.

^{8/} See former AS 46.04.030(e).

discharges, there are additional planning requirements in AS 46.04.030(k)(2), (k)(3)(c), and (k)(4) related realistic maximum discharges. This might seem at first glance to be a phrase that needs an interpretive regulation before it can be enforced. However, the new law does provide a definition for the phrase, as follows:

"realistic maximum oil discharge" means the maximum and most damaging oil discharge that the department estimates could occur during the lifetime of the tank vessel, oil barge, facility, or pipeline based on the size, location, and capacity of the tank vessel, oil barge, facility, or pipeline; on the department's knowledge and experience with the tank vessel, oil barge, facility, or pipeline or with similar tank vessels, oil barges, facilities, or pipelines; and on the department's analysis of possible mishaps to the tank vessel or oil barge or at the facility or pipeline or to similar tank vessels or oil barges or at similar facilities or pipelines;

It is obvious from the detail provided in this definition, that there is little room for an interpretive regulation about what the term "realistic maximum oil discharge" means. The new law is very clear. The only decision-making left to the department's discretion is to apply the statutory definition on a case-by-case basis. That is, for each plan submitted, the department will have to consider the "size, location, and capacity" of the vessel or facility covered by the plan, the department's "knowledge and experience" with that vessel or facility or similar vessels or facilities, and the department's analysis of "possible mishaps" for that vessel or facility or similar vessels or facilities. These are case-by-case considerations, not very susceptible to general regulations. If there is a regulation eventually adopted to implement the definition, it is likely to simply parrot the statute as was the case with "shortest feasible time."

A third provision that might appear to be troublesome without a regulation to interpret it is AS 46.04.030(m). This section allows the department to make exceptions to the statutory requirements of AS 46.04.030(k) to reflect reduced risks of discharges when special actions are taken by the plan holder, such as using double hulls, secondary containment systems, enhanced traffic systems, or enhanced crew or staffing levels. If the department does intend to have a general policy of making the same kind of exception for everyone with double hulls, etc., then it must adopt a regulation to do so. However, this authority could appropriately be exercised on a case-by-case basis because there are other factors involved for each specific vessel or facility, such as its size, location, and history of mishaps. At any rate, the authority for exceptions is discretionary and may never be exercised. The oil industry cannot count on exceptions, and should be prepared to meet the requirements of AS 46.04.-030(k) until a regulation is adopted under AS 46.04.030(m).

Since, in our opinion, the contingency planning standards contained in the new law do not need interpretive regulations, the only other question is that of when applications for contingency plan approval are due.

The new law does not specify an application deadline. The deadline in current regulations for persons wishing to **commence** oil industry operations in the state is 65 days before commencing operations.^{9/} This regulation is in no way superseded by the new law, so, in our opinion, it remains effective. Therefore, new entrants into the oil industry must comply with it.

As for **existing** operations, there does not appear to be any date earlier than June 1, 1991, that would be applicable to new plan submittals. Therefore, a plan holder who submits documentation before June 1, 1991, showing that the holder is in compliance with the requirements of the new law is probably at least in initial compliance with the new law.

As a practical matter, the department may not be able to fully assess by June 1, 1991, whether new plan submittals are, in fact, in compliance with the requirements of the new law. The department is likely to use its current power to grant variances, if properly requested, or to give conditional approval of a newly submitted plan until it can fully assess it.^{10/} However, the oil industry has the duty to submit complete applications showing compliance with the new law before June 1, 1991, regardless of when the department will actually act on the applications.^{11/} We find no authority in statute or regulation for DEC to conditionally approve an existing plan whose documentation shows only that it meets old requirements.

Financial Responsibility Requirements.

The new law amended AS 46.04.040 (financial responsibility requirements) in a number of ways, primarily replacing previous minimum dollar requirements with specific, usually higher, dollar requirements. The amendments also authorized use of letters of credit or "other proof of financial responsibility approved by the department."^{12/}

^{9/} See 18 AAC 75.305(c).

^{10/} See 18 AAC 75.315 and 18 AAC 75.365.

^{11/} The department is under a duty to issue a decision within 65 days under AS 46.04.030(p).

^{12/} See sections 11 - 18 of ch. 191, SLA 1990.

As with the amendments relating to contingency plans, the applicability of these amendments was delayed by sec. 32 of the new law, which provided, in pertinent part

The amendments to AS 46.04.040...do not apply to persons required to show proof of financial responsibility until June 1, 1991. On and after June 1, 1991, proof of financial responsibility must comply with AS 46.04.040, as amended..., regardless of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f)...

As with the contingency plan requirements of the new law, the new law's requirements for proof of financial responsibility appear to be specific enough, with one exception, that no interpretive regulations are necessary before the department can enforce the new requirements.^{13/}

The only exception pertains to the adjustments in dollar amounts provided for under AS 46.04.045. This provision requires the department to adopt a regulation every third year that will adjust the amount of financial responsibility that must be shown so that inflation during that time period is reflected. However, this is irrelevant to the oil industry's duties in 1991; it will only become relevant in 1993 or 1994.

Given that the law is clear enough to enforce without regulations, the remaining question concerns when proof of financial responsibility is due.

Ordinarily, proof of financial responsibility must be renewed once a year. An approval becomes effective on July 1 of one year and expires on June 30 of the following year.^{14/} However, the transitional provision of the new law clearly states that the new requirements are applicable on June 1, 1991, "regardless of whether acceptance of proof of financial responsibility has expired." Therefore, we think a new application showing compliance with the new financial responsibility requirements is due before June 1, 1991, even if current acceptance of proof of responsibility would not expire until July 1, 1991.^{15/}

^{13/} This does not mean that we think DEC has no authority to adopt regulations in this area, only that regulations are not necessary for enforcement of the new law to occur. DEC is not prohibited from repeating statutory requirements in its regulations.

^{14/} See 18 AAC 20.025(b).

^{15/} Actually this corresponds closely to requirements under current regulations anyway. 18 AAC 20.025(a) requires that an application for renewal of financial responsibility must be received by the department no later than 30 days before the expiration date of the previous approval. This would be May 31st of every year.

Senator Sam Cotten
February 14, 1991
Page 8

CONCLUSION

Given the detailed nature of the changes enacted by ch. 191, SLA 1990, we are of the opinion that regulations are not required before DEC can enforce the new law. Therefore, the oil industry should submit applications showing compliance with the new law before June 1, 1991.

DEC may **not** issue an interim permit to allow a member of the oil industry to operate under an existing contingency plan; however, assuming that a new application is submitted that includes documentation showing compliance with the new law, DEC may issue variances or conditionally approve a new contingency plan until it has time to assess it fully.

- - - - -

I have enclosed a copy of the regulations cited in this memo. I hope you find them and this discussion helpful. Please let me know if you have further questions on this subject.

TML:pl
91-083.plm

Enclosure

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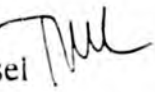
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MEMORANDUM

February 19, 1991

SUBJECT: DEC's Options for Dealing with Contingency Plans on June 1, 1991 (7LS-0785)

TO: Senator Drue Pearce

FROM: Terri Lauterbach 
Legislative Counsel

You have asked what DEC's options are for dealing with contingency plans that are filed in order to comply with ch. 191, SLA 1990 (HB 567 - Sixteenth Legislature), assuming that many are received by June 1, 1991, and that there are no new DEC regulations by that time. ^{1/} You are interested particularly in those options that will allow the plan submitters to keep operating while their plans are reviewed by DEC.

DEC's options for dealing with plan submissions will vary, depending on how complete the plan submissions are, how much staff DEC has to devote to plan review, and how DEC chooses to prioritize use of its staff during plan review. Basically, however, DEC has the following options for dealing with plans submitted by June 1, 1991:^{2/}

(1) "Rubber-stamp" conditional approval, after no review, with the universal stipulation that the plans may need to be modified after further review and again after regulations are adopted;

(2) Conditional approval, after a more-than-cursory review, with a stipulation that the plans may need to be modified after further review and again after regulations are adopted;

^{1/} This memo assumes that a plan of some sort has been submitted to DEC. If a plan has not been submitted by June 1, 1991, by any particular current plan holder, it appears to me that DEC's only option is to issue a compliance order under AS 46.03.850 to that particular plan holder.

^{2/} I think these same options apply whether the plan is submitted as part of a normal three-year renewal cycle or in order to be in compliance with ch. 191, SLA 1990, with the exception of plans whose three-year approval expires before June 1, 1991. These plans should get a through review under the "old" regulations.

(3) Initial disapproval of a plan, after review, but approval of a variance if the plan holder applies for one.

Some of the plans received by DEC between now and June 1, 1991, are those that are subject to review because they are at the end of their three-year renewal cycle. Under 18 AAC 75.318, these plans must be submitted at least 65 days before the expiration date of their previous approval, and under AS 46.04.030(p) DEC has 65 days to issue a decision about these plans.

Other plans received by DEC between now and June 1, 1991, will be those that are subject to review because of the June 1, 1991, applicability date of ch. 191, SLA 1990. It is not clear from the law whether previous DEC approval of these plans actually expires on June 1, 1991, but, since compliance with the new law's standards is required on that date, and only DEC can determine compliance, the most reasonable conclusion seems to be that DEC must review these plans. Under the new law, DEC has 65 days to issue a decision on these plans as well.

DEC could choose to give both types of plans no review if they are submitted within 65 days before June 1.^{3/} It could just "rubber-stamp" the plans with conditional approval under 18 AAC 75.365, use all of its staff time for developing the new regulations (and performing other functions), and delay all review until it has new regulations in place.

Another approach, however, might be for DEC to review the plans at least enough to determine whether the submission is complete. There are many requirements in current (still valid) regulations that specify what kinds of documentation must be submitted with a plan. While a plan holder may refer to a previous plan by reference, there must be documentation of how the plan meets the requirements of law. Because the law has changed, it seems to me that further documentation will need to accompany each plan to show how it complies with the new law. DEC should probably disapprove any plan that is submitted without this kind of documentation.

Assuming, however, that there is apparently a good faith attempt to show compliance with the new law, DEC could give conditional approval to a plan, reserving the right to demand modifications upon further review and upon adoption of regulations.

If documentation submitted with a plan indicates that circumstances have prohibited the plan holder from having available the proper resources needed to comply with the new law, DEC's could disapprove the plan because it is, *prima facie*, not in

^{3/} Plans submitted more than 65 days before June 1, 1991, because they expire before June 1, should be thoroughly reviewed for compliance with the old standards.

compliance with the new standards. However, the plan holder would then have the opportunity to justify the need for a variance, and DEC could approve that variance under 18 AAC 75.365(b). Such a variance includes a timetable for compliance.

One particular type of plan submission may present DEC with additional policy questions to consider. Some plans may seek to demonstrate that certain "prevention credits" should be awarded under the discretion granted to DEC under AS 46.04.-030(m). DEC could either make case-by-case decisions on each of these "credit" requests, or it could decide eventually to issue regulations that give general credits to everyone who has taken certain types of special prevention measures. If DEC does not feel capable of making decisions about "prevention credits" by early August (65 days after June 1), it could either disapprove plans requesting "prevention credits" or grant conditional approval, pending further review and the development of regulations.

Use of any of the options cited above will depend on how DEC decides to use its resources. The level of review accorded to plans during June and July 1991 will reflect choices made by DEC on how much effort should be devoted to plan review and how much should be devoted to its other duties (regulation development, oil spill drills, oil spill responses, etc.). While conditional approvals and granting variances are options, whether after no review or after more-than-cursory review of plans, it will have to be a legislative judgment as to whether DEC has used its resources wisely and in a way intended by the legislature.

TML:pl:gc
91-091.plm

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

WALTER J. HICKEL, GOVERNOR

STATEMENT BY JOHN A. SANDOR, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION - ALASKA SENATE OIL AND GAS COMMITTEE HEARING, MARCH 12, 1991

Mr. Chairman and members of the Senate Oil and Gas Committee. It is a pleasure to participate in this hearing on the implementation of regulations required by the passage of House Bill 567 (HB 567) during the last session of the Legislature. This is a very important law, and the Department appreciates the keen interest of this Committee in the Department's plans for implementing the provisions of HB 567.

House Bill 567 includes three major changes in State oil spill protection:

1. It establishes new response planning standards;
2. It imposes new financial responsibility requirements for contingency plan holders; and
3. It requires prevention measures to be incorporated into contingency plans.

This new law specifies that existing contingency plan holders comply with these three major changes on and after June 1, 1991.

Newly regulated pipelines and onshore exploration and production facilities that were not previously required to have a contingency plan must now have one. This provision of the law took effect immediately upon passage of the law last year (June 1990).

Although the Department had developed plans to have the response planning standards, financial responsibility requirements and prevention measures developed well in advance of June 1, 1991, these were not completed as expected. The Department's contract with consultants did not produce the products expected in the time frames outlined in the contract.

The contract with the consultant firm was renegotiated in September and October of 1990. The contract was reduced in scope but included the review of the Department's existing contingency plan regulations and development of approval criteria for upgraded contingency plan requirements, completion of the reports on inspection and spill drills procedures, and preparation of a data base for use by contingency plan reviewers.

However, during the October - December 1990 period, the contractor missed specified deadlines in the amended contract. These missed deadlines and performance deficiencies appear to be a major factor in the Department's failure to produce the three major changes in State oil spill protection in time for publication and formal public review before June 1, 1991.

Page two-

By January 1991, the Department only had a working draft of the proposed new response planning standards. It was suggested that this working draft be published for formal public review in advance of the June 1, 1991 date specified in HB 567. However, these proposed new standards had not been reviewed by other State and Federal agencies, or any working groups outside the Department. Also the new financial responsibility requirements for contingency plan holders and the new prevention measures to be incorporated into contingency plans - both required by HB 567 - were still not prepared. Thus the contingency plan package was only partially prepared and had not been coordinated with other agencies.

The Department therefore decided to complete the total contingency package specified in HB 567. The process adopted involves a review of the draft regulations by external work groups and will assure desired coordination with other agencies. However, the earliest date the package can be published is July 1, 1991.

Although the contingency plan package could not be completed before the June 1, 1991 date specified in HB 567, the Department is prepared to implement the provisions of this Act in a manner which will assure that existing and newly regulated facilities meet the higher standards developed in this process.

All Contingency Plan Holders have been mailed a package explaining the process by which their contingency plans can meet the new standards required by HB 567.

The March 4, 1991 letter to Contingency Plan holders also summarizes the process to be followed by newly regulated pipelines and onshore exploration and production facilities that were not previously required to have a contingency plan.

The processes described in this package is admittedly more complex and difficult to understand than if the regulations could have been developed and published prior to June 1, 1991.

Although an amendment to HB 567 moving back the date of June 1, 1991 to a date after the total regulations package is completed would greatly simplify the process of implementing the higher contingency plan standards, the Department has been advised that such an amendment is not required.

Mr. Chairman, with this brief introduction, representatives of the Department of Law are prepared to summarize responses to a number of questions related to this issue, and answer any additional questions your Committee members may have.

Following this, representatives of the Department can summarize the way in which these regulations are to be developed and the process by which the contingency plans are to be developed, amended and approved.

The Department, of course, will welcome and consider whatever suggestions the Committee may have that would improve the process and ultimately achieve the objective of improved contingency plans and response capability.

MEMORANDUM

State of Alaska

Department of Law

TO: Douglas L. Blankenship
Deputy Attorney General

DATE: March 12, 1991

FILE NO:

TEL NO: 269-5235

SUBJECT: Implementation of 1990 SLA
Ch 191 (formerly HB 567)
and the "June 1 deadline."

FROM: Kay Gouwens and Mike Frank
Assistant Attorneys General
Natural Resources-Anchorage

BACKGROUND:

1990 SLA CH. 191 (the "Act") substantially amended the laws that require certain vessels and facilities to prepare and obtain DEC approval of oil discharge and prevention contingency plans ("c-plans"). Among other things, the Act: (1) extended the c-plan requirement to pipelines and on-shore facilities; and (2) imposed more stringent planning requirements on all c-plan holders (the "subsection (k) through (m) requirements"); for example, a tank vessel with a cargo capacity of 500,000 barrels or more must now plan to contain or control, and clean-up, a 500,000 barrel spill within 72 hours of the spill.

Most of the Act's provisions took effective immediately last year. But the legislature delayed the effective date of the subsection (k) through (m) requirements until June 1, 1991. DEC had at one time planned to adopt regulations implementing the subsection (k) through (m) requirements and other provisions of the Act well before June 1, 1991. It is now anticipated that regulations will be effective on or about December 1, 1991.

Numerous questions have arisen regarding the effect of the June 1 deadline and how the Act will be implemented between now and the time regulations are in place.

The following briefly summarizes the questions we have been asked by DEC and the oral advice we have provided. Please bear in mind that we have not had an opportunity to review the Act's legislative history.

1. What does the Act require of the newly regulated facilities (pipelines and on-shore facilities)?

On the effective date of the Act, such facilities were prohibited from operating without a DEC-approved contingency plan. AS 46.04.030(b). Any facility that is currently operating without an approved plan is violating the law. [Under sec. 33 of the Act, the Act took effect immediately; the delayed effective date

provided by sec. 32(a) of the Act applies only to the new, more stringent planning standards imposed by AS 46.04.030(k) through (m).]

To come into compliance with the law, these facilities must obtain DEC approval of a contingency plan. Because the (k) through (m) requirements do not take effect until June 1, 1991, a plan that does not meet those requirements might still be approved by DEC before that date. However, because DEC has 65 days to act on new plan applications, as a practical matter any new plan that is submitted after March 28, 1991 must satisfy the subsection (k) through (m) requirements in order to obtain DEC's approval.

2. What must a current c-plan holder do before June 1, 1991 to satisfy the Act's new planning requirements?

Not later than June 1, 1991, it must "maintain or have available" in its "region of operation," or in another region of operation approved by DEC, spill response resources sufficient to meet the planning standards described in subsection (k) through (m) of AS 46.04.030. [Under Sec. 32(a) of the Act: "On and after June 1, 1991, a contingency plan must comply with AS 46.04.030 (k) through (m), ...regardless of whether the contingency plan is due for renewal."]

3. Must the current c-plan holder submit, or obtain DEC approval of, a new or amended c-plan that satisfies the subsection (k) through (m) requirements before June 1, 1991?

No. The law provides that certain oil facilities and vessels may not operate unless they hold a c-plan approved by DEC. As noted above, the Act also requires c-plan holders to meet the subsection (k) through (m) requirements on and after June 1, 1991, even if their approved plans are not yet due for renewal. However, nothing in the Act provides that existing approved plans are automatically revoked on June 1 or that they must be renewed or modified before their normal renewal date. Approvals of plans under former law remain in effect unless and until DEC takes steps to revoke them. Holders of such plans who have satisfied the requirements of (k) through (m) may continue to operate without violating the law. Put another way, unless DEC requires otherwise, a plan-holder who meets the subsection (k) through (m) requirements may continue to operate under a currently-approved plan until the plan's scheduled expiration date.

4. On and after June 1, 1991, must DEC determine compliance with the subsection (k) through (m) requirements when it reviews applications for approval, renewal, or modification of c-plans?

Yes. Under AS 46.04.030 (e), in reviewing an application for a c-plan, DEC is charged with ensuring that the applicant "has access to sufficient resources to ... contain, clean up, and mitigate potential oil discharges from the facility or vessel as provided in (k) of this section," unless, under AS 46.04.030(m), DEC allows an exception to those requirements in recognition of prevention measures taken by the facility or vessel. Because subsections (k) through (m) take effect on June 1, 1991 under Sec. 32 of the Act, all DEC approvals on and after that date must be based on adherence to the requirements of subsections (k) through (m).

5. Are there any deadlines by which DEC must determine an operator's compliance with the subsection (k) through (m) requirements?

Yes and no. DEC must act on initial c-plan applications, and probably on renewal applications, within 65 days of receipt and, on and after June 1, 1991, DEC's review of such applications must apply the subsection (k) through (m) requirements.

However, DEC is under no duty to require new applications or amendments from current plan holders before their plans are due for renewal, nor to otherwise initiate pre-renewal review of those plans for compliance with the subsection (k) through (m) requirements. DEC could, however, choose to require such review and could, for example, require all current plan holders to submit amendments demonstrating compliance with subsection (k) through (m) on a timetable of DEC's choosing.

6. Even though current c-plan holders who comply by June 1, 1991 with subsection (k) through (m) may continue to operate on and after that date until their current plans expire or are revoked by DEC, many may be reluctant to do so without DEC's certification of their compliance with subsections (k) through (m). If applications for plan amendments reflecting the subsection (k) through (m) requirements are submitted to DEC, must DEC consider them? If so, what deadlines apply?

DEC must consider such applications "in a timely manner" (AS 46.04.030(h)), but there is no specific deadline set in the statute. Presumably DEC may establish any reasonable timetable for reviewing applications for amendment. While the Act requires that DEC "shall approve or disapprove a proposed contingency plan within 65 days after it receives a complete application for approval," (AS 46.04.030(p)), we believe that, taken in context, this applies only to new or renewal applications.

7. May DEC postpone its consideration of applications for plan amendment until after it has promulgated regulations implementing and further defining the Act's requirements?

Yes. As noted above, AS 46.04.030(h) provides that DEC must review the amendment in a timely manner. We interpret this provision as requiring that any delay in the review of the amendment must not be unreasonable under the circumstances. Relevant considerations might include the DEC resources available for plan review, and the cost-effectiveness for the agency and the applicant of postponing review until the regulations are in effect.

8. May DEC condition its approval of applications (whether for new plans, renewals, or amendments) on the plans' future compliance with DEC regulations as the regulations might change over time?

Yes.

9. Must DEC obtain any other agency's review of its regulations before adopting them?

Although it may be advisable, AS 46 does not require it. However, like all regulations, there must be review and approval by the Department of Law and the regulations must be signed by the Lieutenant Governor before they become effective.

Please note that AS 46.04.020(e) provides for agreements allowing cooperative review of contingency plans with federal agencies, should DEC so choose.

10. Must plan applications be reviewed by other agencies prior to approval by DEC?

Yes. Under AS 46.04.030(j), all plans must be reviewed by the Department of Fish and Game and the Department of Natural Resources before DEC approves or modifies them. DEC is required to adopt regulations establishing procedures and time limits for such review. See also, AS 46.04.020(e) (agreements for federal agency input provided for).

11. May the holder of a plan approved prior to June 1, 1991, who is in compliance with it as written continue to operate on and after June 1, 1991 without also satisfying the subsection (k) through (m) requirements?

It is not clear. Under a narrow reading of the Act, such a holder could continue to operate because it has an "approved" plan and is in compliance with it. However, it may also be argued

Deputy Attorney General
Doug Blankenship

March 12, 1991
Page 5

that, by providing that from June 1, 1991 on "a contingency plan must comply with AS 46.04.030(k) -- (m)," the Act effectively amended all c-plans as of that date to incorporate the (k) through (m) standards, and that the holder is not in compliance with the plan unless it is also in compliance with (k) through (m). Upon DEC's review and determination that an approved plan does not meet statutory or regulatory requirements, DEC has the authority to revoke the c-plan, and the plan holder would have no right to operate after revocation of the plan.

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman

Senator Drue Pearce, Vice-Chairman

Senator Bettye Fahrenkamp

Senator Lyman F. Hoffman

Senator Dick Shultz



P. O. Box V, State Capital

Juneau, AK 99811

(907) 465-3711

March 5, 1991

The Honorable John Sandor
Commissioner
Alaska Department of Environmental Conservation
P.O. Box 0
Juneau, Alaska 99811

Dear Commissioner Sandor,

Lynn Kent of your office shared the draft of DEC's proposed letter to contingency plan holders dealing with implementation of the statutory June 1, 1991 deadline. I appreciate the opportunity to work with your staff on this important issue. We have now had a chance to review the final letter, which was being sent out yesterday. My interest in this project lies in two areas: first, to see that the legislature's intent that plans comply by June 1, 1991 is carried out; and second, to ensure that your department exercises a meaningful review of the new or amended plans in order to carry out the legislative intent.

The letter directs that contingency plan holders whose plans do not already comply with HB 567 submit amendments to their plans by June 1, 1990. The issue that now concerns me is the review that DEC can provide the revised plans. Since DEC has deferred the schedule for adoption of the regulations until at least December, it now appears that you are going to have to review plans twice, first to ensure that they comply with the facial requirements of the statute, and second after the regulations take effect to ensure that the plans comply with the regulations. In my view, all the plans must be reviewed, including those that the plan-holder believes meet the new requirements without amendment. I recognize that this is a monumental task, and I am keenly interested in working with the department to ensure that the

Imedute

review is substantial and meaningful, rather than cursory. I also understand that there is an additional issue relating to Coastal Zone Management consistency review. Clearly, DEC is going to have to develop a plan to provide this review.

I would like to work with your department to develop such a plan, in a public forum. I would like to know specifically what resources DEC plans to devote to this effort: how many people does the department have, specifically in which positions, in what locations, and how much of each of their time can be devoted to this effort (what are their other duties, if any)? I believe that it is necessary to develop this plan in some detail before action is taken on the department's budget. Will you please provide me with this information in as much detail as possible? I would like to set up a second work session to go over this plan as soon as we have had a chance to review it. I have scheduled a work session for Tuesday, March 12 at 10:30.

Finally, I wanted to address the draft response regulations schedule. There are two issues. First, I believe that the decision to defer the public comment and adoption schedule for these regulations until they could be combined with the other two packages was made at a time that DEC believed it would not be reviewing C-plans until they expired. Now that the department recognizes that C-plans must comply with the law as of June 1, and that DEC must exercise review of the plans, I wonder whether you believe that the long schedule for adoption of the regulations still seems appropriate. Since the law applies on June 1, even without "prevention credits" it seems it might be better to have the response regulations in place as soon as possible, even without the prevention regulations. My office has heard comments from a number of plan holders who believe that the regulations should be in place as soon as possible so that all operators have the same standards; that is, that DEC "level the playing field" between competitors by adopting uniform standards. We have also received copies of two letters to you urging reinstatement of the June 1 target for the regulations. Further, it would appear that early adoption of the regulations would prevent or at least diminish the number of plans that have to be reviewed twice, once after June 1 and again after the regulations are adopted. I urge you to reconsider a more expedited schedule for the adoption of the regulations.

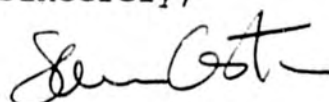


A second and somewhat related issue is whether the regulations should, regardless of the schedule, be in the formal public review process now. I don't quite understand why DEC has decided not to notice up the draft regulations for comment; the length of the comment period is entirely within your discretion. You could still conduct the workshops that you have planned within the framework of a public review process. While, certainly, most interested parties are aware

of the current status of the regulations and probably have the working draft, the legislature mandated formal notice provisions for good reasons, and members of the public have come to rely on those notice procedures. The formal notice would undoubtedly serve in fact to advise some members of the public that DEC is, now, reviewing these regulations and that their comments would be considered. I urge you to put the working draft of the regulations out for formal public notice now.

I appreciate your willingness to work with me to provide a safer environment for oil production in Alaska.

Sincerely,

A handwritten signature in dark ink, appearing to read "Sam Cotten", with a stylized, cursive script.

Sam Cotten

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE COMMISSIONER
P.O. BOX 0, JUNEAU, ALASKA 99811-1800

Telephone:
(907) 465-2600

March 4, 1991

Dear Contingency Plan Holder:

The Department of Environmental Conservation is in the process of implementing comprehensive oil spill legislation passed during the last session of the Legislature. House Bill 567 (HB 567) makes three major changes in State oil spill protection:

1. It establishes new response planning standards;
2. It imposes new financial responsibility requirements for contingency plan holders; and
3. It requires prevention measures to be incorporated into contingency plans.

Newly regulated pipelines and onshore exploration and production facilities that were not previously required to have a contingency plan must now have one.

While I expect you have already seen a copy of this new law, I am enclosing one in case you have not.

The new law requires you, as a contingency plan holder, to comply with all three major changes on and after June 1, 1991, regardless of whether your contingency plan is due for renewal. If you believe your currently approved plan does not meet the new standards established by statute, you should submit any necessary amendments to demonstrate compliance with the new law before June 1, 1991. The Department will review amendments for compliance against the new provisions of HB 567. Plans which appear to meet the provisions of the law will be approved. We recognize this process is taking place without the benefit of us having new regulations in place. Further amendments may be necessary based on an additional plan review after adoption of final regulations, scheduled for December 1, 1991 (see enclosed Implementation Schedule).

As you may also be aware, we recently announced a schedule to finalize regulations to implement the three major changes outlined above. Our time line is enclosed. We invite you to participate with us in the regulation development process.

Page 2

March 4, 1991

A copy of the draft regulations for the first major change, response planning standards, is enclosed for your information. The draft regulations may be used as guidance in preparing amendments to demonstrate compliance with the new law. They are also for your use in the public participation process. We will send working draft regulations of the second and third major changes in the law as soon as they are developed. Please keep in mind that these are working drafts only and that additional plan amendments may be necessary after the final regulations are adopted.

Newly regulated facilities not covered by an existing contingency plan (pipelines and on-shore exploration and production facilities) are required by the law to have an approved contingency plan to operate. This provision of the law took effect immediately upon passage of the law last year (June 1990). Contingency plan applications not yet submitted for these facilities should be submitted no later than March 25, 1991. These facilities can continue to operate, unless otherwise notified, while their plans are being reviewed as long as application is made by March 25, 1991.

After the transition period, compliance will be required with the regulations then in force. This approach will ensure compliance with the June 1, 1991 statutory deadline while providing a longer opportunity to develop the regulations needed to fully implement the law.

Sincerely,


John A. Sandor
Commissioner

Enclosures

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
P.O. BOX 0, JUNEAU, ALASKA 99811-1800

Telephone:
(907) 465-2600

February 25, 1991

The Honorable Sam Cotten
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Cotten:

Thank you for your letter of February 7. I will try to answer your questions as succinctly as possible.

In a telephone conversation with the Alaska Department of Environmental Conservation (ADEC) office on January 24, I directed that copies of the working draft of the HB 567 regulations be disseminated to all who had requested them. My decision to release the working draft was made with the understanding that we would be consolidating the regulation writing process initiating the formal, public review process when these consolidated regulations were prepared. This directive was never rescinded.

Deputy Commissioner Mead Treadwell passed on the decision to disseminate the working draft to Lynn Kent at a section chiefs' meeting at the Environmental Quality office on January 25. Ms. Kent reported to Mr. Treadwell that the dissemination to the working group would happen that Friday, or at the latest, the following Monday. On Monday afternoon, when Ms. Kent learned of the decision to consolidate the regulations package, her office delayed **formal** dissemination of the draft regulations since the cover letter would need to be revised to reflect the consolidated schedule. From Thursday, January 24 on, copies of the draft regulations were available upon request. Actual mailing of the draft regulations to those who had requested copies began on Tuesday, January 29 and has continued since.

Second, concerning Gail Gatton's letter of January 24, I cannot tell you if Alyeska had a copy of the regulations before a copy was picked upon the 25th. Lynn Kent reports that parts of the internal working draft were circulated around the Department. Steve Provant reports he showed an earlier working draft to Mark Hutton, an Alyeska contractor, on the Prince William Sound (PWS) Contingency Plan Steering Committee in January. A statement by Steve Provant on this issue is enclosed, along with minutes of the Steering Committee meetings. Working drafts are public documents that are routinely provided to the public upon request and I am sorry that your office

February 25, 1991

and others were improperly denied copies.

Third, we received written comments from Arco and Alyeska at the same time. Copies of these comments have already been provided to Debra Vogt of your office. John Ringstad and Paul Quennel of BP came to our office Monday morning, January 28, with verbal comments. No written comments were received from BP. By the time comments were received from Arco and Alyeska, we had already made the decision to consolidate the regulation-writing process. As I mentioned, I spoke to Mr. Treadwell by telephone and he informed our directors of that decision at a weekly directors' meeting that same Monday morning, the 28th.

Although you did not ask, we would like to volunteer copies of two other letters, from Cook Inlet Spill Prevention & Response Inc. (CISPRI) and Marathon, that are among the many requests we have received for change in the timing of the law based on the Department's late completion of draft regulations. Tim Robertson, Vice President of RCAC, also recommended to Mr. Treadwell, in a Monday telephone call, that the Department consolidate the regulations and not issue them "piecemeal" as the staff had intended.

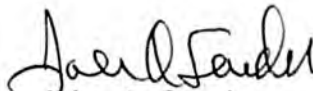
I believe my decision to issue the regulations as a package is sound. We recognize that the public comment period is in the July-September time span when many people are in the field. However, by releasing the working draft for review and use by the working groups during the January 24-July 1 period, the public involvement process is strengthened, as is the regulation review and development process.

A copy of the protocol and membership list is enclosed, with minutes of various meetings and the attendees lists.

I would be pleased to discuss this matter in greater detail if you wish.

Your concerns are appreciated.

Sincerely,


John A. Sandor
Commissioner

Enclosures:

1. Statement by Steve Provant, Feb. 22, 1991
2. Minutes of the PWS Contingency Plan Steering Committee, with lists of attendees for meetings, and Committee membership list
3. Protocol governing conduct of the PWS Contingency Plan Steering Committee
4. Letters from CISPRI and Marathon requesting a 90 day extension.

Statement by Steve Provant
Valdez District Office Manager, DEC
Co-chairman, Prince William Sound Contingency Plan Steering
Committee

February 22, 1991

The PWS C-Plan Steering Committee was established to work out issues encountered in the development of the PWS C-Plans and to determine and to the extent possible agree on the best available technology for preventing oil spills, for responding to spills, for near shoreline protection and for shoreline cleanup. We also felt that the Steering Committee could lead the way from a technological standpoint in providing information and data to determine how the technical requirements of HB 567 could be achieved.

Anticipating the development of regulations for HB 567 and recognizing that the Steering Committee (which was comprised of RCAC, USCG, ADEC, and the industry), would have more technical knowledge than any other group in the state, Protocol 9 was adopted which said that the committee would provide technical input into the development of contingency plan regulations. I think all members of the Steering Committee felt like this was not just a possibility, but a pledge and acknowledgement of a new working relationship between the public, the state and federal governments and industry and of the work that had been accomplished and would contribute to truly meaningful regulations.

As part of our efforts in dealing with oil spill response we have been trying to bring as much information as possible into our evaluations and have been making use of pertinent documents as quickly as we could acquire them.

Two documents that proved useful in helping to get a feel for the possible direction of the regulations were generally made available to a wide variety of parties and the committee in the fall of 1990 were:

ADEC Interim Review Guidelines for Contingency Plans

Guidelines for Contingency Plan Reviews (Draft) prepared by
Bennett

At most of our meetings the development of contingency plan regulations was discuss in an open forum and all committee members had access to any information that was available. In January (approximately Jan. 12) the draft ADEC contingency plans regulations were distributed within ADEC for review. The next Steering Committee meeting was not scheduled until February and there was a quick turnaround time on getting comments in (4 days).

At approximately that same time I met with Mark Hutton the co-

chairman of the Steering Committee and a consultant to Alyeska. In addition to several other topics I discussed with and showed Mark the regulations that I had just received and my concerns with the regulations and the involvement of the Steering Committee.

Mainly, the development of the regulations had ignored an ADEC agreement, through the protocols, that the technical information gathered from many hundred hours of meetings with many parties had been ignored. This fact had potentially serious implications with the credibility and viability of the Steering Committee. The appearance of the regs having been drafted absent the knowledge and history of many non-Juneau ADEC staff threatened to cause the dissolution of the group. Also, I was concerned that some of the regulations may have been in direct conflict with ADEC conditions attached to the Alyeska and Shippers C-plans.

These regulations were not distributed. Approved draft regulations were thought to be available through the normal department processes in time for the next Steering Committee meeting, February 20.

I feel that we, as a department should be concerned about drafting workable regulations to do the job, versus trying to meet a deadline and developing regulations that fall short and compromises public protection. In addition, what we have accomplished through this "working group" arrangement, is far more than could have been accomplished by any other means to further that goal.

Alaska State Legislature

Senate Committee on Oil and Gas

Senator Sam Cotten, Chairman
Senator Drue Pearce, Vice-Chairman
Senator Bettye Fahrenkamp
Senator Lyman F. Hoffman
Senator Dick Shultz



P. O. Box V, State Capital
Juneau, AK 99811
(907) 465-3711

February 7, 1991

John Sandor, Commissioner
Alaska Department of Environmental Conservation
P.O. Box 0
Juneau, Alaska 99811

Dear Commissioner Sandor,

Janice Adair of your office called Wednesday morning and spoke with Deborah Vogt of my office, in the hope of clearing up some of the confusion surrounding the HB 567 regulations. I appreciate her concern, and her willingness to set the record straight. Unfortunately, I am still left with some questions about the whole process.

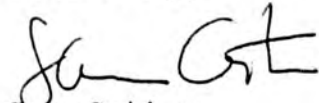
Public trust in the administrative process is something we are all striving to maintain. I hope that you don't see my interest in this matter as antagonistic to your administration, but rather as an opportunity to set the public record straight on an important public policy issue.

There are several issues that remain unclear. First, I am confused about Alyeska's apparent receipt of the regulations in advance of other members of the public. Both Ms. Adair -- in her conversation with Ms. Vogt -- and Mr. Treadwell -- in his testimony before the House Oil and Gas Committee -- explained that Alyeska (Mary Nordale) picked up a copy of the regulations at a time when Mr. Treadwell believed that the regulations would be distributed to others who had requested them. This was apparently January 25. In your letter to Gail Gatton you state that on January 24 you directed that copies of the working draft be disseminated to all who had requested them. (My office was one that had requested the regulations.) This directive was apparently rescinded, and other parties did not receive the regulations. Please explain why, and when, this decision was reversed.

Secondly, Ms. Gatton's letter to you dated January 24 states that as of the date that she wrote the letter, she was aware that Alyeska already had a copy of the regulations. Is this true? That is, did Alyeska already have a copy of the regulations before one was picked up by Mary Nordale on January 25? Your letter to Ms. Gatton discusses the "protocol" signed by members of the Alyeska contingency plan working group and the department, and seems to imply that members of the group had copies of the regulations before January 25. Can you please send a copy of the protocol, and, if draft regulations were provided to members under the protocol, a list of those persons or groups who received them?

Third, in your letter to Ms. Gatton you indicate that you received comments on the regulations on January 28 from Arco and BP as well as Alyeska. When did Arco and BP receive the draft regulations? Please provide me with copies of their comments.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Sam Cotten', with a stylized flourish at the end.

Sam Cotten
Chair

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
P.O. BOX 0, JUNEAU, ALASKA 99811-1800

Telephone:
(907) 165-2600

February 4, 1991

Ms. Gail Gatton, Acting Executive Director
Citizens' Oversight Council on Oil and other
Hazardous Substances

Dear Gail,

Thank you for your letter of January 24. I am responding to you, and am planning to present a copy of my response to the House Oil and Gas Committee, the members of which may have many of the same questions your letter did.

1. STATUS OF THE SERC AND ASSOCIATED EFFORTS

The State Emergency Planning Committee will have its first meeting under my chairmanship March 22, and has scheduled additional sessions June 14, September 27, and December 13. I recently sent letters to all of the members of the SERC to enlist their help to encourage grant applications from communities seeking to form Local Emergency Planning Committees. I hope the SERC will keep in close contact not only with LEPC's but the Federally mandated Regional Response Team, the Regional Citizen's Advisory Councils and the Associations for Cook Inlet and Prince William Sound, the state and federal efforts recently established to look at spill technology, and, of course, your Council. I cannot tell you at this time what we will propose for funding LEPC's in the coming year -- our Department originally requested \$600,000 before learning that the combined proposed draws on the Response Fund exceeded the expected revenue of the fund for the coming year. The Governor will submit a detailed budget for Response Fund expenditures March 15. In principle, we are very committed to the idea of local emergency planning.

2. STATUS OF HB 567 REGULATIONS

As you may be aware from news reports, we recently decided to combine a series of public workshops planned this spring to cover all three parts of the regulations package necessary to implement House Bill 567. Our news release detailing the department's schedule is enclosed.

News reports that regulations had been cancelled or being modified as a result of industry pressure are false. The working draft regulations have not been cancelled. Public involvement needs mandated the development of a schedule that provides opportunity for such involvement.

We feel it is essential to have all three parts of the regulations effective simultaneously. Spill response and prevention are integrated in the law and in life; the two need to be integrated in regulations enforcing the law. Likewise for the financial responsibility component: since many businesses, large and small, will be depending on insurance purchased from third parties in order to meet the required financial responsibility, it is only fair to make sure all requirements are known at the time.

It is my belief that the Spill Prevention, Planning, and Management Section planned not only to issue the proposed regulations on a piecemeal basis, but also planned to take regulations to public hearings without consulting other agencies of government --at the state or federal level-- before they were written. That is another major reason for the extended schedule we ultimately proposed.

You may also be aware that the department had performance problems with a major contractor chosen last year to help draft the proposed regulations, and that contract was revised. Unfortunately, delays in initial drafting were one result. The contract to help design the prevention portion of the regulations was only signed January 21 -- again far too late to provide a meaningful work product in time for a June 1, 1991 deadline.

HB 567 represents new legislation not just for the state of Alaska, but perhaps sets higher planning and performance standards on oil and petroleum product production, shipping and storage than are found anywhere else in the world. It will be standard practice for this department to seek the widest possible public review when regulations are written, especially regulations that advance frontiers as much as HB 567 will.

February 4, 1991

At the same time the department has been drafting regulations under this law, another part of the same section has been working to approve Alyeska's new contingency plan. Various parts of that contingency plan had been assigned to a working group composed of members of DEC and Alyeska staff, the Coast Guard, and various public interest groups. A protocol signed between the Department and Alyeska during the last administration committed the Department to sharing the efforts of the contingency plan review group and the regulation writing group. It is for that reason, on the date of your letter, Alyeska (and many others representing citizens' groups and industry) had seen parts of the regulation working draft.

On January 24, the date of your letter, I further directed that copies of the entire working draft of the first part of the regulations be disseminated to not only the Alyeska working group but also to a large list of other industry and citizens' groups who have an interest in the regulations. Alyeska representatives personally picked up their copy; my office was of the understanding that other copies would be mailed from the SPPM office that Friday or, at the latest, the following Monday. I had made my decision to consolidate and extend the regulation-writing schedule before our office received comments from Arco, BP, and Alyeska on Monday the 28th. You should be aware that another key factor in our extension of time was the fact that representatives of key committees in both the House and the Senate asked us if we felt a legislative extension of time was necessary. After consulting legal counsel, we found that while the law sets a compliance date of June 1, there is no deadline for regulations. We feel a transition period that does not require a mass resubmission of spill contingency plans is the most efficient way to bring the large number of responsible parties into compliance.

3. STATUS OF THE 470 FUND

While I stated above that the Hickel administration plans to submit its proposed FY92 expenditures from the 470 Fund to the Legislature March 15, I would like to explain here some additional activities we have taken on in administration of the fund.

In January, we commissioned an in-house audit of all activities undertaken with fund monies since the fund was created in 1986.

Today, we are reporting to the Legislature on fund activities for Fiscal Year 1990, but we believe that report is incomplete. It shows very little, for example, on efforts to recover fund expenditures from spillers after an incident has taken place. It shows nothing about the substantial expenditures from the fund

February 4, 1991

made by departments other than DEC. And while monies from the fund are used to acquire assets, there is no accounting for the year-to-year assets in this or any of the previous fund reports. For that reason, our transmittal letter with this annual report promises the Legislature a copy of our audit, due in March, where these and other issues concerning administration of the fund will be covered.

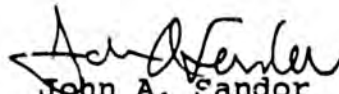
We believe it is prudent to spend 470 funds for contingency planning and prevention activities, including drills, as the Department does now. We believe it is prudent to spend 470 funds for the acquisition of assets, and to maintain those assets, as the department does now. We also believe it is important to make sure that if prevention efforts fail, and a spill or hazardous substance release does occur, we have the capability to respond. The department, in connection with DNR and the Division of Emergency Services, share this responsibility.

We have also found that planned expenditures for the coming year from the 470 fund totalled over \$40 million. The department alone requested allocations of \$24.8 million in the currently submitted budget. Between now and March, we will be balancing the needs for prevention, response capability, contingency planning, and response and damage assessment from the Exxon Valdez disaster. All of these activities will be reflected in 470 fund expenditures in the year to come, but we must have an assurance that there is a sufficient spill reserve as well. Once we have a better idea of what resources are necessary for each task, we will be able to speak to the number of positions to be funded from this source.

4. STATUS OF THE ARCTIC CONTINGENCY PLAN

When state comments are complete on the Arctic contingency plan being drafted by the federal government, you will be sent a copy.

Sincerely,


John A. Sandor
Commissioner

DRAFT

February --, 1991

The Honorable John Sandor
Commissioner
Alaska Department of Environmental Conservation
--
Juneau, Alaska 99811

Dear Commissioner Sandor,

I appreciate your answering my letter of February 7 regarding dissemination of the draft regulations dealing with contingency plan preparedness standards. I believe that I now understand what happened. Our understanding was that Alyeska had a copy of the draft regulations as early as January 17, and this is consistent with Mr. Provant's statement that he provided the draft to Mr. Hutton of Alyeska on about January 12. However, it was at about this time that my staff was advised by your staff that the draft would not be available until February 1.

Your letter states that "[w]orking drafts are public documents that are routinely provided to the public upon request...." This was not, however, the approach taken by your department during late January. My office, and a great many other people, had requested that we be provided with the draft as soon as it was available. The draft clearly became available to at least Alyeska, BP and Arco before it was available to us. While I believe that it would have been permissible for DEC to retain the document as an in-house document until the entire department had "signed off" on it, it is certainly permissible for an agency to provide working drafts to the public prior to complete review. However, it should do so evenhandedly.

Thank you for taking the time to address this issue.

Sincerely,

Sam Cotten



STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
OFFICE OF THE DEPUTY COMMISSIONER
JUNEAU

2-22-90

Senator Cotten -

After our last conversation Steve Provant checked his calendar and found he had not shared draft regs with the entire group, but just with Mark Hutter, his Co-Chairman.

His statement on this matter is enclosed with the Commissioner's letter. Sheila was correct on the radio -- the Steering Committee and RCAC had NOT seen the drafts as yet, to my knowledge.

This is a different story
than I had originally heard
from Steve. I'm sorry not
to have had all the facts
when you called. I hope
you will now find the record
complete.

With best regards,

Paul.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION SPILL PREVENTION PLANNING AND MANAGEMENT

WALTER J. HICKEL, GOVERNOR

P.O. Box 0
Juneau, Alaska 99811-1800
(907) 465-2630
FAX (907) 789-5673

February 15, 1991

Dear Concerned Citizen:

As a result of the passage of House Bill 567 by the State Legislature on June 27, 1990, the Alaska Department of Environmental Conservation (ADEC) is making major revisions to its oil pollution control regulations (18 AAC 75). Regulations revisions focus on three main areas: planning standards, spill prevention, and financial responsibility. Your opportunities to participate in the review of these regulations are outlined in the enclosed informational materials.

Enclosed for your review is the following:

- An informational brochure;
- A press release on the HB 567 regulations package;
- A list of significant issues for your consideration and comment;
- A sectional analysis containing a brief explanation of each section of the proposed regulations, referenced by section number;
- A working copy of draft regulations which amend the Department of Environmental Conservation's existing regulations on planning standards and contingency plans; and
- An implementation schedule for industry contingency plans, outlining the procedures to be followed between the present time and the final adoption of the revised regulations on or about December 1, 1991.

A series of public workshops will be held throughout the state to solicit comments on the proposed regulations (see enclosed brochure for the workshop schedule). All comments will be considered in the preparation of the final draft of the regulations, which will go out for formal public hearings and comment in July 1991. If your community is not listed and you cannot attend any of the workshops, you may contact this office to discuss your concerns.

The department is developing new regulations for oil terminal facilities, pipelines, exploration and production facilities, and tank vessels and barges. A Technical Working Group has been established and a contract has been awarded to aid ADEC with this effort. The work group membership represents a diverse range of interests and technical experience. The public members of the group were selected by ADEC from nominations by the Alaska Municipal League, Alaska Center for the Environment, United Fishermen of Alaska, the Alaska Oil and Gas Association, the Arctic Marine Resources Commission, and the Prince William Sound and Cook Inlet Regional Citizen Advisory Councils. The first meeting is scheduled for March 19, 1991 at the Anchorage Federal Building in room C130.

To help answer any questions about these regulations, "hot lines" have been established. For questions concerning planning standards and contingency plans, contact Ed Collazzi or Larry Dietrick at 789-3969; for prevention regulations, contact Mike Mansker at 789-4198; for financial responsibility, contact Glenn Adams at 789-4197.



OIL SPILL



PREVENTION, RESPONSE



AND FINANCIAL RESPONSIBILITY

How you can help design ways the new law will work...

The T/V Exxon Valdez release of 11 million gallons of North Slope crude into Prince William Sound in 1989 was a threshold event that is recasting the system for responding to oil spills in Alaska.

Oil facilities and vessels must meet more exacting contingency planning standards for spill prevention and response, as required by House Bill 567, a key spill bill adopted by the 1990 Alaska Legislature.

The Legislature set these higher standards, but it is now the responsibility of state government, industry and the public to decide precisely how the law will be put into effect. To implement HB 567, the Department of Environmental Conservation (DEC) is writing regulations which will be reviewed through the broadest public participation possible.

To take part, please read on.



Department of
Environmental
Conservation

The Law Says:

HB 567 tackles spill preparedness through the spill prevention and response plans that oil facilities and vessels are required to submit for State approval. The law now requires plans from more facilities than before, adding onshore exploration and production facilities, and pipelines. Plus, higher standards are required of *all* plans in three major ways:

1 Planning Standards — "Realistic maximum oil discharge" (RMOD) is one of the cornerstones of the new spill law, specifying the size of spill each vessel or facility operator must be prepared to clean up within 48 hours or 72 hours. The size of RMOD varies by amount of oil stored or transported, while response time depends upon type of facility.

RMODs and response times directly affect the amounts—and thus costs—of equipment, supplies and personnel that companies must keep ready at all times in case of a spill. While the standards are spelled out in HB 567, *how* these planning standards will be put into effect is expected to receive much attention during public review.

2 Prevention — There may be better technologies for preventing spills than for cleaning them up once they have occurred. HB 567 broadens the scope of spill response plans to include prevention in an innovative way: while vessels and facility operators have always been expected to prevent spills, the State now has discretion to consider the reduced risks after companies incorporate specific prevention measures. This means that companies employing preventative techniques such as double hulls, for example, may have

their required RMODs adjusted downward according to formulae written into regulations.

The objective is to encourage investment in prevention and prevention technology. Thus, the regulations for prevention are of great interest to industry and the public alike.

3 **Financial Responsibility** — Operators of vessels and facilities handling oil must give proof that they possess the financial resources to pay for cleanup and damages from potential spills. HB 567 sets new requirements for the amounts of financial responsibility and broadens the acceptable forms of proof.

In Addition to the New Regulations, the Law Also:

- Authorizes DEC and municipalities to enter into agreements that pertain to vessel traffic monitoring and control systems
- Modifies provisions relating to response action contractors
- Requires DEC to do a survey of non-crude (diesel, gasoline, etc.) oil terminal facilities with storage of 5,000 to 10,000 barrels and report back to the Legislature
- Requires a study and report relating to non-crude oil vessels and barges
- Provides for an effective date of June 1, 1991.*

** The law requires vessels and facilities to comply by June 1, but regulations will not be adopted in final form until December, 1991. If plan-holders believe their currently approved plans do not meet the new standards established by statute, they should submit any necessary amendments to demonstrate compliance with the new law before June 1, 1991. The Department will review amendments for compliance against the new provisions of HB 567. Plans which appear to meet the provisions of the law will be approved. Further amendments may be necessary based on an additional plan review after adoption of final regulations, scheduled for December 1, 1991.*

The Regulations Package

The focus of the public participation and review process will be a package of regulations with three components matching the key elements of HB 567: planning standards, prevention, and financial responsibility. A working draft of the regulations for planning standards is now available for review. Regulations for financial responsibility will be available in March. Development of the prevention regulations will also be discussed in March workshops, with draft prevention regulations available in July.

The workshops will be followed by formal notice and public hearings on the complete three-part regulations package. This process will begin in July.

Public Participation and Regulations Development Schedule:

MARCH 4

Mail out working draft of regulations for C-plan standards, and workshop schedule

MARCH 15

Distribute working draft of regulations for financial responsibility

MARCH 19

First meeting of HB 567 work group

MAR. 20 - MAY 2

Hold informational workshops at 18 locations

JUNE 1

Incorporate public comments
Amendments to response plans due

JULY 1

Complete draft prevention regulations
Issue public notice for all regulations

JULY

Hold public hearings on all regulations

SEPTEMBER

Incorporate final revisions

OCTOBER

Department of Law review

NOVEMBER

Lt. Governor review

DECEMBER 1

Regulations effective

FEBRUARY 1, 1992

Owners/operators complete amendments to response plans

Workshops—Your Opportunity to Take Part

Oil Spill Contingency Plan Regulations Workshop Schedule

City	Location of Meeting	Time	Date
Anchorage	Spenard Recreational Center (Multi-Purpose Rm.)	7-9 p.m.	March 20
Valdez	City Hall	7-9 p.m.	March 21
Kenai	Sport Center	7-9 p.m.	March 26
Homer	Senior Citizen Center	7-9 p.m.	March 27
Seward	AVTEC Student Service Center (Auditorium)	7-9 p.m.	March 28
Kodiak	Assembly Chambers	7-9 p.m.	April 2
Dutch Harbor (Unalaska)	School Auditorium	8-10 p.m.	April 3
Fairbanks	Noel Wien Library (Auditorium)	7-9 p.m.	April 8
Barrow	Assembly Chambers	7-9 p.m.	April 9
Dillingham	City Hall	7-9 p.m.	April 15
Bethel	Fish and Wildlife (Conference Rm.)	7-9 p.m.	April 16
Nome	N.W. Community College (Conference Rm.)	7-9 p.m.	April 17
Kotzebue	Nana Conference Rm.	7-9 p.m.	April 18
Yakutat	A.N.B. Hall	7-9 p.m.	April 23
Cordova	Mt. Eccles (Cafeteria)	7-9 p.m.	April 24
Juneau	Centennial Hall (Egan Rm.)	7-9 p.m.	April 30
Sitka	Blatchley Middle School	7-9 p.m.	May 1
Ketchikan	Super 8 Motel (Conference Room)	7-9 p.m.	May 2

Another Way to Participate: Contact the HB 567 Working Group

A working group with representatives from interested organizations and industry is helping DEC develop the regulations that will put HB 567 into effect.

Members are interested in hearing from constituents with ideas for implementing the law. They may be contacted by phone or fax as indicated.

First Meeting: March 19, Anchorage Federal Bldg., Room C 130. Meetings are open to the public.

Alaska Center for the Environment

Nancy Hemming, Anchorage
Phone: 346-3341 Fax: 346-3341 1

Alaska Municipal League

Wayne Coleman, Oil Response Office, Kodiak Island Borough Phone: 486-5736 Fax: 486-2886 2

Arctic Marine Resource Council

John Zuck, Anchorage
Phone: 279-6519 Fax: 258-6688 3

Cook Inlet Regional Citizens Advisory Council

Larry Smith, Homer
Phone: 235-7090 Fax: 235-7290 4

Prince William Sound Regional Citizens Advisory Council

Tim Robertson, Seldovia
Phone: 234-7400 Fax: 234-7699 5

United Fishermen of Alaska

Riki Ott, Habitat Chairperson, UFA, Cordova
Phone: 424-3915 Fax: 424-3430 6

U.S. Coast Guard

LCDR Michael Rand, Alaska Regional Response Team Coordinator, Juneau
Phone: 463-2217 Fax: 463-2218 7

U.S. Environmental Protection Agency

Carl Lautenberger, Environmental Scientist, Anchorage
Phone: 271-5083 Fax: 271-3424 8

Alaska Oil and Gas Association

Bill Schoephoester, Mgr. Planning Projects, Petro Marine Services, Anchorage
Phone: 278-7586 Fax: 258-2362 9

Gene Burden, VP Admin. and Government Affairs, Tesoro Alaska Refinery, Kenai
Phone: 776-8191 Fax: 776-5546

Robert G. (Rob) Dragnich, Exxon Company, USA,
Anchorage Phone: 564-3766 Fax: 564-3789

Robert Atkins, Alyeska, Anchorage
Phone: 265-8974 Fax: 265-8983

Tim Plummer, Marine Manager, Alyeska, Valdez
Phone: 835-6526 Fax: 835-6078

Alaska Department of Environmental Conservation
Mike Mansker, Environmental Specialist
Chairperson of Working Group, Juneau
Phone: 789-4197 Fax: 789-5673

Alaska Department of Fish and Game
Claudia Slater, Habitat Biologist, Anchorage
Phone: 267-2336 Fax: 349-1723

Alaska Department of Natural Resources
Kristina O'Connor, Natural Resource Manager,
Anchorage Phone: 762-2580 Fax: 562-3852 or 562-5269

Your Participation Is Needed

One lesson from the Exxon-Valdez oil spill is that the participation of many Alaskans is needed in order to do a better job of spill prevention and response. Whether you choose the public workshops, working group, public hearings, or all of the available options, your ideas and comments are invited to help make sure all of us are ready for any future spills.

For further information or to give your comments, you may also call these DEC "567 Hotlines" at the DEC Central Office in Juneau:

- Planning standards:
Ed Collazzi or Larry Dietrick789-3969
- Prevention regulations :
Mike Mansker789-4198
- Financial responsibility:
Glenn Adams789-4197

Or write:

Department of Environmental Conservation
Spill Prevention, Planning and Management
P.O. Box O
Juneau, Alaska 99811-1800

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DRAFT



OIL SPILL PREVENTION, RESPONSE AND FINANCIAL RESPONSIBILITY

How you can help design ways the new law will work...

The T/V Exxon Valdez release of 11 million gallons of North Slope crude into Prince William Sound in 1989 was a threshold event that is recasting the system for responding to oil spills in Alaska.

For prevention of spills and for spill response, ~~FACILITIES REQUIRED TO HAVE~~ *approved contingency plans must*

meet more exacting standards required by House Bill 567, a key spill bill adopted by the 1990 Alaska Legislature.

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To take part, please read on.



Department of
Environmental
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such as

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In Addition to the New Regulations, the Law Also:

- Authorizes DEC and municipalities to enter into agreements that pertain to vessel traffic monitoring and control systems
- Modifies provisions relating to response action contractors
- Requires DEC to do a survey of non-crude (diesel, gasoline, etc.) oil terminal facilities with storage of 5,000 to 10,000 barrels *and report back to the legislature.*
- Requires a study and report relating to non-crude oil vessels and barges
- ~~Requires DEC to survey oil terminals with storage capacity between 5,000 and 10,000 barrels and report back to the Legislature~~
- Provides for an effective date of June 1, 1991. See below*

* The law requires vessels and facilities to comply by June 1, but regulations will not be adopted in final form until December, 1991. DEC will effect a transition period for compliance allowing for conditional approval of contingency plans, followed by demonstration of compliance upon adoption of the regulations.

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The workshops will be followed by formal notice and public hearings on the complete three-part regulations

Public Participation and Regulations Development Schedule:

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Initiate public review and participation
Start HB 567 working group

FEBRUARY 18

Mail out working draft of regulations for
C-plan standards, and workshop schedule

MARCH

Distribute working draft of ~~regs~~ *spell out* for
financial responsibility

MARCH 19

First meeting of HB 567 working group *at 18 location*

MAR. 20 - MAY 2

Hold informational workshops

JUNE 1

Incorporate public comments

JULY 1

Complete draft prevention ~~regs~~ *spell out*
Issue public notice for all ~~regs~~

JULY

Hold public hearings on all ~~regs~~

SEPTEMBER 1

Incorporate final revisions

OCTOBER 1

Department of Law review

NOVEMBER

Lt. Governor signature

DECEMBER 1

~~Regs~~ effective *spell out*

FEBRUARY 1, 1992

Owners/operators complete amendments
to C-plans

*text
missing*

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Kenai	Sport Center	7-9 p.m.	March 26
Homer	Senior Citizen Center	7-9 p.m.	March 27
Kodiak	Assembly Chambers	7-9 p.m.	April 2
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Members are interested in hearing from constituents who wish to make suggestions. They may be contacted by phone or fax as indicated.

HB 567 Implementation Technical Working Group representatives:

Meetings of this group are open to the public. Representatives listed here are interested in hearing from constituents with ideas for implementing HB 567.

Alaska Center for the Environment

Nancy Hemming, Anchorage
Phone: 346-3341 Fax: 346-3341

Alaska Municipal League

Wayne Coleman, Oil Response Office, Kodiak
Island Borough Phone: 486-5736 Fax: 486-2886

Alaska Oil and Gas Association

Bill Schoephoester, Mgr. Planning Projects,
Petro Marine Services, Anchorage
Phone: 278-7586 Fax: 258-2362

Gene Burden, VP Admin. and Government Affairs,
Tesoro Alaska Refinery, Kenai
Phone: 776-8191 Fax: 776-5546

Robert G. (Rob) Dragnich, Exxon Company, USA,
Anchorage Phone: 564-3766 Fax: 564-3789

Robert Atkins, Alyeska, Anchorage
Phone: 265-8974 Fax: 265-8983

Tim Plummer, Marine Manager, Alyeska, Valdez
Phone: 835-6526 Fax: 835-6078

Cook Inlet Regional Citizens Advisory Council

~~Robert Atkins~~ Harry Smith
Howler Phone: 233-5293
Prince William Sound Regional Citizens Advisory
Council Fax
235-7296
Tim Robertson, Seldovia
Phone: 234-7400 Fax: 234-7699

Arctic Marine Resource Council
John Zuck, Anchorage
Phone: 279-6519

[alignment]

check these once more

Regional Citizens Advisory Council
To be named

United Fishermen of Alaska
Rikki Ott, Habitat Chairperson, UFA, Cordova
Phone: 424-3915 Fax: 424-3430

U.S. Coast Guard
LCDR Michael Rand, Alaska Regional Response
Team Coordinator, Juneau
Phone: 463-2217 Fax: 463-2218

U.S. Environmental Protection Agency
Carl Lautenberger, Environmental Scientist, Anchorage
Phone: 271-5083 Fax: 271-3424

**Alaska Department of
Environmental Conservation**
Mike Mansker, Environmental Scientist,
Chairperson of Working Group, Juneau
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Alaska Department of Fish and Game
Claudia Slater, Habit Biologist, Anchorage
Phone: 267-2336 Fax: 349-1723

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Kristina O'Connor, Natural Resource Manager,
Anchorage

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- Financial responsibility: Glenn Adams 789-4197

Or write:
Department of Environmental Conservation
Spill Prevention, Planning and Management
P.O. Box O
Juneau, Alaska 99811-1800

over Return address

in file

1000

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION SPILL PREVENTION PLANNING AND MANAGEMENT

DRAFT
WALTER J. HICKEL, GOVERNOR

P.O. Box O
Juneau, Alaska 99811-1800
(907) 465-2630
FAX (907) 789-5673

February 15, 1991

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Alaska Department of
**Environmental
Conservation**
P.O. Box O
Juneau, Alaska 99811-1800

Release

Walter J. Hickel, Governor

John A. Sandor, Commissioner

Subject: DEC Outlines HB 567 Spill Response Regulations Review

Date: February 1, 1991 No. 91-10

Contact: Lynn Kent, DEC Spill Prevention, Planning and Management
Section Chief, Juneau: 465-2630

"The Department of Environmental Conservation intends to write oil spill contingency standards to implement new legislation with the broadest public participation possible," DEC Commissioner John A. Sandor said today. To reach that goal, the department has issued a schedule for public workshops on the regulations this spring. Formal public review and public hearings will be held next summer, with the regulations scheduled to be complete November 1 and effective December 1.

The regulations are the implementation package for House Bill 567, passed by the Legislature in 1990, and will come in three components to address the major sections of the law: spill response standards, financial responsibility, and prevention.

Copies of a working draft of part of the regulations may be obtained from the department's Spill Prevention, Planning and Management Section, phone 465-2630 in Juneau. Copies are also available from DEC regional offices in Anchorage (563-6529) and Fairbanks (451-2360).

The current draft of the regulations includes only spill response standards, with the financial responsibility component expected in February and the prevention regulations due out in the spring. In a January directive, Commissioner Sandor determined that the regulations package would not go out for formal notice and public

hearings until all components were in draft form and available for review, but that workshops could be held to begin the public involvement process. The department has successfully used this approach with other regulations in the past to maximize public input.

"In the formal phase these complex regulations should be presented as a complete package," said Commissioner Sandor. "The three parts are integral to the whole and to avoid confusion on the part of the public and the regulated community they must be taken together when going through public hearings and legal reviews. However, the regulations can benefit greatly from public input prior to the formal public review stage. We hope to gain that benefit from the briefings and workshops."

HB 567 was enacted by the Legislature in 1990. It establishes new requirements for oil spill prevention, containment, control, cleanup, and sets new financial responsibility limits for oil facilities and vessels that transmit oil as cargo in Alaska. The Department of Environmental Conservation is charged with implementing the new law.

HB 567 requires oil facilities and vessels to comply with new response planning standards by June 1, 1991. The legislation does not require all contingency plan holders to submit new or revised plans by that date. The regulations, which will provide detailed information about the standards in the legislation, will not be formally adopted by that date, so the department will provide a transition period for compliance. Contingency plans are on a three-year cycle for department review and approval. Those which come up for renewal between now and when the regulations are complete will be reviewed and approved. Approval will be conditional, requiring plans to be amended if necessary to meet any new provisions under the regulations as finally adopted.

The transitional period will end February 1, 1992. At that time, industry amendments to contingency plans necessary to comply with the new regulations are to be completed.

The regulations package to be adopted includes three components:

- (1) Standards for spill size and cleanup time limits that operators of oil facilities and vessels must incorporate in their contingency plans.
- (2) Financial responsibility requirements, which include methods by which operators may prove that they have sufficient financial resources to handle spills and potential damage.
- (3) Prevention measures, which will specify the types of spill prevention techniques operators may put in place, and a possible reduction in the size of a spill that must be planned for if certain prevention measures are implemented.

In addition to the content of the regulations package, the department will be seeking input on how best to consolidate response preparedness efforts (such as formation of industry spill response cooperatives), how to provide for citizens' oversight of response planning, citizens' participation in response actions, and how to incorporate advances in spill prevention and cleanup technology over the long term.

The department also seeks citizens' advice on how to coordinate implementation of the new state law with new federal law, which also raises planning standards.

The following approximate schedule has been proposed for the review process. Specific meeting dates and locations will be widely advertised:

Jan. 24-Feb 28: Distribution of working draft.

Mid-February: Initiation of working group, briefings and other public involvement activities.

March-June: Public workshops in communities throughout Alaska, widely advertised.

July 1: Public notice regulations for standards, financial responsibility and prevention.

July and August: Public hearings.

Sept. 1: Final changes.

Oct. 1: Department of Law review.

Nov. 1: Lt. Governor review.

Dec. 1: Regulations take effect.

Feb. 1, 1992: transition period ends. Amendments to industry contingency plans required.

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The contents list to 18 AAC 75 is amended to read:

PRELIMINARY
DRAFT
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Article

1. Surface Oiling (18 AAC 75.010 -- 18 AAC 75.070)
2. Discharge Reporting, Cleanup, and Disposal
(18 AAC 75.080 -- 18 AAC 75.180)
3. Oil Discharge for Scientific Purposes (18 AAC 75.190 --
18 AAC 75.230)
4. Oil Discharge Prevention and Contingency Plans
(18 AAC 75.305 -- 18 AAC 75.395)
5. Schedule of Civil Penalties (18 AAC 75.500 --
18 AAC 75.600)
6. General Provisions (18 AAC 75.900)

18 AAC 75.080 is repealed and readopted to read:

18 AAC 75.080. DISCHARGE NOTIFICATION REQUIRED. (a) A person in charge of a facility or operation shall notify the department of a discharge of a hazardous substance at or from the facility or operation as follows:

(1) as soon as the person has knowledge of

(A) a discharge of a hazardous substance other than oil, including a discharge into an impervious secondary containment area or structure; or

(B) a discharge of oil to the water of the state which

(i) exceeds 55 gallons;

(ii) causes a film, sheen, or discoloration affecting 1,000 square feet or more of the water surface; or

(iii) causes a sludge or emulsion to be deposited beneath the surface of the water;

(2) within five hours after the person has knowledge of a discharge of oil in excess of 55 gallons solely to land;

(3) within 24 hours after the person has knowledge of a discharge of oil

(A) to the water of the state, other than a discharge under (1)(B) of this subsection;

(B) solely to land, in excess of 10 gallons, but 55 gallons or less; or

(C) in excess of 55 gallons, which results in the escape or release of oil from its original storage tank, pipeline, or other immediate container into an impervious secondary containment area or structure;

(4) within seven days after the person has knowledge of a discharge of oil

(A) to the water of the state which is in an amount less than one-half pint and which causes a film, sheen, or discoloration affecting less than 100 square feet of the surface of the water; or

(B) solely to land in an amount equal to 10 gallons or less.

(b) The notice required under (a) of this section must include, to the extent known, the information required by 18 AAC 75.110.

(c) If a person is the person in charge solely under 18 AAC 75.900() (C), the requirements of this section are met if notice of the discharge is in fact given by another person in charge. (Eff. 4/23/77, Register 62; am / /91, Register)

Authority: AS 46.03.020
AS 46.03.050
AS 46.03.710
AS 46.03.740
AS 46.03.745

AS 46.03.755
AS 46.04.070
AS 46.04.900(7)
AS 46.09.010

18 AAC 75.305 -- 18 AAC 75.395 are repealed and readopted to read:

ARTICLE 4. OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS

Editor's note: Effective / /91, Register , the regulations in 18 AAC 75.300 -- 18 AAC 75.395 were comprehensively reorganized. The history line at the end of each section does not reflect the history of that provision before / /91, nor is the section numbering related to the repealed sections in 18 AAC 75.305 -- 18 AAC 75.395.

Regulations regarding oil discharge contingency plans, 18 AAC 75.310 -- 18 AAC 75.360, first took effect on September 16, 1977, and appeared in Register 63; on September 9, 1981, in Register 79, 18 AAC 75.310 -- 18 AAC 75.360 were repealed and replaced with 18 AAC 75.305 -- 18 AAC 75.395. Under the authority of AS 44.62.125(b)(6), the regulations attorney made numerous nonsubstantive corrections as of Register 110, July 1989. A subsequent amendment adding 18 AAC 75.390, proof of contingency plan, took effect on August 17, 1990, and appeared in Register 115. Previous versions of these regulations may be reviewed at the Office of the Lieutenant Governor.

Section

- 300. Applicability
- 305. Application for approval
- 310. Application for amendment
- 315. Application for renewal
- 320. Contingency plan contents
- 340. Spill volume preparedness standards
- 345. Containment, control, and cleanup requirements
- 350. Requirements for transfers between plan holders
- 355. Training requirements
- 360. Department review procedures
- 365. Department decision
- 370. Proof of approved contingency plan
- 375. Contingency plan maintenance and performance requirements
- 380. Inspections
- 385. Discharge exercises
- 390. Failure to comply
- 395. Regional master contingency plan boundaries

18 AAC 75.300. APPLICABILITY. (a) In addition to the requirements of AS 46.04.030, a person subject to AS 46.04.030 shall meet the requirements of this chapter.

(b) The department will, in its discretion, exempt from the requirements of AS 46.04.030(c), a tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations. A person seeking an exemption under this subsection shall submit an application for an exemption as part of that person's contingency plan application. An application for an exemption under this subsection must be submitted to the department on a form supplied by the department. The department will include its decision to approve or deny the application for exemption with its decision under 18 AAC 75.365. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.050
AS 46.04.070

18 AAC 75. 305. APPLICATION FOR APPROVAL. (a) At least 65 days before beginning an operation covered by a contingency plan required by AS 46.04.030, the application and at least five copies of the contingency plan described at 18 AAC 75.320 must be delivered to the department's regional office in the primary region of operation for which the plan was prepared. The department will, in its discretion, require the submittal of additional copies of the contingency plan.

(b) A complete application for approval of a contingency plan must be submitted on a form supplied by the department. The application and the accompanying plan must be signed by the applicant and must include

- (1) the applicant's name, address, and telephone number;
- (2) the name, location, and type of facility or operation covered by the plan;
- (3) for a tank vessel or oil barge, the vessel's name, identification number, country of registry, the name and address of the owner, and the name and address of the operator;
- (4) the scheduled date for the operations covered by the plan to begin, or, for an existing facility or operation, the date operations began; and

(5) a coastal project questionnaire for a facility or operation located in or directly affecting Alaska's coastal zone.

(c) The department will review an application submitted under this section using the procedures set out at 18 AAC 75.360, and will issue its decision under 18 AAC 75.365. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.310. APPLICATION FOR AMENDMENT. (a) A plan holder shall apply to the department for approval of an amendment to a contingency plan if a change in the operations covered by the plan, the operator's performance under the plan, or the operator's discharge experience require a modification to the approved plan. The department will use the procedures at 18 AAC 75.360, unless the proposed amendments are routine plan updates which do not diminish the plan holder's ability to respond to an oil spill.

(b) The plan holder may request that the department process an application for an amendment as a routine plan update. Within 10 days after receipt of an application under this subsection, the department will approve a routine plan update without further review under 18 AAC 75.360 if the department finds that the proposed update will not diminish the plan holder's ability to respond to an oil spill. A copy of the approved routine plan update will be sent to the resource agencies and coastal districts. Routine plan updates include

(1) additions or deletions to the list of tank vessels covered by the approved contingency plan, unless the department finds that the addition or deletion of tank vessels requires an amendment to the plan;

(2) revisions to the list of names, addresses, or phone numbers of spill command and response personnel;

(3) revisions to training procedures or course work requirements that do not reduce the amount or quality of training required by this chapter; and

(4) other minor revisions that the department finds do not reduce or cause a significant change the plan holder's ability to respond to an oil spill.

(c) If the department finds that the update proposed by the plan holder might diminish the plan holder's ability to respond to an oil spill, the department will notify the plan holder within 10 days that the proposed plan amendments will be reviewed under 18 AAC 75.360. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.315. APPLICATION FOR RENEWAL. (a) A plan holder shall apply for renewal of the department's plan approval no later than 65 days before the expiration date of the approved plan.

(b) If no change will be made in the plan when it is renewed, the expired plan may be incorporated by reference in the renewal application.

(c) An application for renewal will be reviewed using the procedures and deadlines set out at 18 AAC 75.360. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.320. CONTINGENCY PLAN CONTENTS. (a) An oil discharge prevention and contingency plan submitted for approval under this chapter must be in a form usable as a working plan for oil discharge prevention, control, containment, cleanup, and disposal. A contingency plan must contain enough information, analyses, supporting data, and documentation to demonstrate the plan holder's ability to meet the requirements of AS 46.04.030 and this chapter.

(b) The submitted plan must be accompanied by a cover page that identifies the name of plan, the plan holder, the date of the plan, and a statement

(1) signed by a person with authority to commit the necessary resources for the plan's implementation; and

(2) which commits the facility or operation to the execution of the plan.

(c) The contingency plan must consist of four sections entitled

(1) emergency action plan;

(2) operation overview and environmental analysis;

(3) response procedures; and

(4) appendices.

(d) Each section listed in (c) of this section must contain the information described in this subsection, organized into separate chapters, tabbed for easy reference, and presented in the following order:

(1) **Section 1 -- EMERGENCY ACTION PLAN:** The emergency action plan must provide information necessary for initial immediate response to an emergency discharge event. The emergency action plan must include information, organized and presented in a separate bound booklet, suitable for field use. After the department approves the contingency plan, a copy of the approved emergency action plan must be immediately provided to every person involved in operations and response. The emergency action plan must list the immediate actions to be taken within the first 72 hours after detection of an oil discharge emergency, presented in the following order:

(A) the name, address, telephone number, and affiliation by company, agency, or local government of each person who by law or through employment, contract, or cooperative agreement, is primarily responsible for responding to the event, and that person's functional role in the command system;

(B) a checklist of spill reporting procedures and requirements, including a notification diagram naming key personnel, with telephone numbers, to be notified of emergency events at any hour of the day;

(C) a pre-deployment checklist of the safety procedures and equipment that must be used to carry out the emergency action plan;

(D) a checklist of emergency actions to be taken if a discharge occurs, to stop, contain, control, recover, and dispose of the spilled oil, including a pre-deployment review of procedures, and any other information necessary to ensure a complete and appropriate response in compliance with this chapter;

(E) a list of field communications procedures and assigned radio frequencies for common use by all response personnel;

(F) a list of responsibilities that the operator will be required to execute until the responder identified in the contingency plan assumes control over the emergency oil discharge response; and

(G) a plan diagram of the facility or operation for reference in conducting response operations;

(2) Section 2 -- OPERATION OVERVIEW AND ENVIRONMENTAL ANALYSIS: The operation overview and environmental analysis must provide the information and analysis regarding facility operations, potential oil discharges, discharge prevention measures, and environmental conditions, including

(A) a table of contents, lists of any tables, figures, or appendices, and corresponding page numbers for the plan contents;

(B) information on the facility or operation covered by the plan, including a detailed description of the operation and location of the facility or operation and its oil storage, transfer, exploration, or production operations, including

(i) the number, types, and oil storage capacities of the structures covered under the plan;

(ii) the types and amounts of oil product contained in the structures;

(iii) a physical description of the facility or operation, including a plan showing features such as surrounding topography and water bodies, mooring areas, oil transfer locations, pipelines and control stations; one-line diagrams of the facility or operation that identify cargo, bunker, and ballast tanks, cargo piping and ballast piping, winches, emergency towing equipment, and power plants; each diagram must be no larger than 11" x 17" and must be folded into the plan for easy reference;

(iv) a description of the normal procedures for loading, or transfer, of oil from or to pipelines, facilities, tank vessels, or storage tanks, and the amount, frequency, and duration of oil transfers; and

(v) a description of prevention measures proposed for use by the facility or operation to prevent or minimize the discharge of oil;

(C) if a plan holder proposes to use the services of a response action contractor to satisfy any of the requirements of this chapter, the plan holder shall

(i) provide the name, address, telephone number, and affiliation of the response action contractor;

(ii) include in Section 4 of the contingency plan a copy of a signed, binding contract with the contractor which demonstrates the contractor's obligation to respond if an oil discharge occurs;

(iii) verify that the contractor is available to respond to a department-conducted discharge exercise as well as an actual spill event;

(iv) demonstrate a sufficient commitment of financial resources to support the actions the contractor will be required to undertake; and

(v) demonstrate that the equipment and other spill response resources to be provided by the contractor are compatible with the type of facility or operation and the oil product handled by the plan holder;

(D) an analysis of the number, size, frequency, duration, and location of potential oil discharges that might occur over the life of the facility or operation; at a minimum, the following factors must be considered in the potential oil discharge analysis:

(i) geologic, hydrologic, oceanographic, or meteorologic conditions that present a risk to operations, such as volcanoes, earthquakes, avalanche zones, and flooding;

(ii) navigational hazards, traffic patterns, or other physical hazards that pose a risk to transportation; and

(iii) potential operational conditions, problems, or failures, including human error, vandalism, or sabotage, that might result in an oil discharge;

(E) for a stationary facility or operation, mapped predictions of discharge movement, spreading, and probable points of contact during the first 15 days, based on expected local, seasonal, meteorologic, and oceanographic or terrain conditions;

(F) identification of environmentally sensitive areas and areas of public concern, including the following information for each:

(i) the likelihood of a discharge contacting an environmentally sensitive area or an area of public concern; and

(ii) the effect of seasonal conditions on the sensitivity of the areas and on the effectiveness of the discharge response;

(G) a complete list of oil discharge control, containment, and cleanup response equipment, including

(i) the location, inventory, and ownership of the equipment;

(ii) the manufacturer's rated capacity to recover spilled oil for each item of equipment;

(iii) each vessel available for deploying and towing boom equipment;

(iv) lightering equipment and personnel for transferring oil from damaged or undamaged tanks; and

(v) the procedures for storage, maintenance, and inspection of spill response equipment when not in use;

(H) for a site at which response to an oil discharge might be necessary, a description of the environmental conditions at the site, including information regarding the occurrence, extent, and frequency of the following conditions:

(i) wind velocity;

(ii) wave height;

(iii) ice and debris presence;

(iv) tides and current movements and velocities;

(v) visibility during daylight and darkness;

(vi) weather, including precipitation, temperature, and icing;

(vii) average seasonal temperatures; and

(viii) other conditions that might influence the efficiency of the response equipment or the overall effectiveness of the response effort; the sources of data used to prepare this information must be identified and submitted in an appendix to the plan;

(I) for an area at which response to an oil discharge might be required, an analysis of the environmental conditions under which a mechanical response method for oil containment and cleanup would be effective, and the conditions that would reduce response effectiveness or preclude response using mechanical methods, including

(i) an analysis of the efficiency and effectiveness of the mechanical response equipment in the full range of environmental conditions;

(ii) an analysis of the effect of environmental conditions on the deployment and operation of mechanical response equipment and personnel; and

(iii) an estimate of the period and percentage of time, on an annual basis, when environmental conditions at the site would limit or preclude mechanical response efforts;

(J) a description of the nonmechanical response techniques proposed for use during periods when mechanical spill response methods will not be effective due to environmental conditions or other factors; the department will, in its discretion, approve the use of nonmechanical techniques which include the use of dispersants or onsite burning;

(K) a description of the means to be employed for oil discharge detection, including surveillance schedules, leak detection, observation wells, monitoring systems, and spill detection instrumentation; if electronic or mechanical instrumentation is used, detailed specifications, including threshold detection sensitivities, must be provided; and

(L) a detailed description of training programs for personnel operating oil discharge response equipment and handling hazardous waste, as required by 18 AAC 75.355;

(3) **Section 3 -- RESPONSE PROCEDURES:** The response procedures section of the contingency plan must provide a concise summary of the action that will be taken and the procedures that will be followed in response to an oil discharge. The response procedures must describe specific procedures for the control, containment, cleanup, and disposal of an oil discharge, including

(A) a description of the command system to be used in response to a discharge, including the name, address, telephone number, and affiliation by company, agency, or local government, of each person who by law or through employment, contract, or cooperative agreement, is primarily responsible for responding to the event, and that person's functional role in the command system;

(B) a description of notification procedures to be used during a response, including addresses, telephone numbers, and a notification diagram naming key personnel to be notified of emergency and nonemergency events at any hour of the day;

(C) a description of the safety procedures and equipment to be used in carrying out the contingency plan;

(D) a detailed set of communications procedures, including a list of the equipment to be used and its location, assigned radio frequencies for common use by all response personnel and responsible agencies, procedures for immediate deployment and operation of communication equipment if a discharge occurs, and procedures for periodic testing and maintenance of the equipment;

(E) a detailed plan describing methods for surface and air deployment of equipment, personnel, and other resources to the spill site, including

(i) plans for alternative methods in adverse weather conditions; and

(ii) identification of aircraft, vessels, and other transportation equipment to be used in a discharge response, and its ownership and availability in the event of a discharge;

(F) procedures and methods for immediately initiating surveillance and tracking of discharged oil, and providing continually updated predictions to response personnel and responsible agencies on the trajectory of the oil and expected points of contact, including environmentally sensitive areas and areas of public concern;

(G) a detailed description of the methods and procedures to be used to minimize the magnitude of the discharge, to control and contain the discharged oil, and any other information necessary to ensure a complete and appropriate response as required by this chapter, including

(i) a plan for timely response to exclude oil from environmentally sensitive areas and areas of public concern;

(ii) a plan and time frame for drilling a relief well if an exploration or production well blowout occurs; and

(iii) estimates of the length of time needed to initiate and conclude a response to a discharge;

(H) a detailed description of the methods and procedures to be used to clean up, store, and dispose of discharged oil, and any other information necessary to ensure a complete and appropriate response as required by this chapter, including

(i) the number, location, and types of skimmers, boom, pumps, and other mechanical cleanup equipment to be used;

(ii) procedures and equipment for storage of recovered oil, oil contaminated materials, and oily wastes;

(iii) the locations and procedures for disposal of recovered oil, oil-contaminated materials, oily wastes, and sanitary and solid wastes, including a description of any contracts or agreements to guarantee proper disposal; a copy of each contract or agreement for disposal must be included as an appendix to Section 4 of the contingency plan;

(iv) a plan for cleanup of oil, oil-contaminated materials, and oily wastes if contact with the shoreline occurs, including a description of methods to be used for different types of shoreline;

(v) a detailed plan for deployment and support of shoreline cleanup equipment, materials, and personnel;

(vi) a plan for removal, treatment, and disposal of oil, oil-contaminated materials, and oily wastes; and

(vii) an estimate of the length of time needed to complete cleanup, storage, and disposal responsibilities;

(I) if the use of dispersants is proposed as a response option, information on the conditions, procedures, and methods of use including

(i) where and under what conditions dispersant will be used;

(ii) the amount, type, and toxicity of each dispersant to be used;

(iii) the application procedures and equipment to be used;

(iv) the locations where the dispersant and application equipment will be stored;

(v) the dispersant's effectiveness relative to climatological and meteorological conditions; and

(vi) the plan for protecting environmentally sensitive areas from adverse effects of the dispersant;

(J) if onsite burning is proposed as a response option, a detailed description of the procedures and strategies for conducting onsite burning if a discharge occurs, including

(i) a description of where and under what conditions onsite burning will be used;

(ii) the amount and type of discharged oil to be burned;

(iii) the equipment to be used;

(iv) an estimate of the burning's effectiveness relative to climatological and meteorological conditions;

(v) the plan for protecting environmentally sensitive areas and the public from adverse effects of the burning; and

(vi) an estimate of the impact on air and water quality, including state and federal clean air and clean water standards; and

(K) detailed, step-by-step scenarios for three levels of oil discharge from the facility or operation; one scenario must be for the volume of discharged oil described at 18 AAC 75.340; each scenario must

(i) include a best estimate of elapsed time for each step of the scenario, from initial discovery and notification, through mobilization and deployment of equipment, to final cleanup and disposal; and

(ii) demonstrate sufficient planning to meet the spill volume preparedness standards set out at 18 AAC 75.340;

(4) **Section 4 -- APPENDICES:** Separate appendices to the contingency plan must provide the following information:

(A) signed copies of contracts, cooperative agreements, or other legal commitments necessary to prevent, control, contain, and clean up an oil spill;

(B) signed copies of course completion certificates or attendance records verifying that personnel have been trained as required by 18 AAC 75.355;

(C) verification of sufficient spending authority to enable the spill responder to execute the response action plan and emergency action plan;

(D) a list of data sources used to determine the environmental conditions at the discharge site and the efficiency of mechanical response methods;

(E) signed copies of contracts or agreements regarding the transfer of equipment from or to the plan holder if an oil spill occurs; and

(F) other information necessary to provide background for or verification of the plan contents. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.340. SPILL VOLUME PREPAREDNESS STANDARDS.

(a) To meet the requirements of AS 46.04.030(k), equipment, personnel, and other spill response resources identified in the contingency plan must be adequate to meet the volume standards set out in this section. The plan holder shall be prepared to effectively contain, control, and clean up the following volumes of discharged oil within the prescribed time:

(1) for an oil terminal facility:

(A) the capacity of the largest oil storage tank at the facility covered by the plan within 72 hours, unless the risk of damage from natural or man-made conditions outside the facility would place the facility at an increased risk of an oil discharge event affecting one or more storage tanks;

(B) if increased risk is present, the plan must demonstrate the plan holder's preparedness to contain, control, and clean up, within 72 hours, an oil discharge equal to the capacity of all the potentially affected oil tanks at the facility;

(C) the plan must include the basis for selecting the number of storage tanks and the volume of discharged oil planned for in the response; and

(D) the department will determine if increased risk is present and what number of storage tanks and volume of discharged oil for which the response must be planned for in its decision on the contingency plan; the department will, in its discretion, issue a conditional approval for purposes of this subparagraph;

(2) for an exploration facility: 16,500 barrels within 72 hours, and continuing at the rate of 5,500 barrels each day over the full period of time necessary to stop the discharge and clean up any remaining oil; to meet this requirement, the plan must demonstrate the plan holder's ability to stop the discharge within the same season as any exploratory drilling below threshold depths is scheduled;

(3) For a production facility:

(A) 16,500 barrels within 72 hours, and continuing at the rate of 5,500 barrels each day over the full period of time necessary to stop the discharge and clean up any remaining oil, unless the plan demonstrates, based on adequate production well data, analyses, and supporting documentation, that the well pressures are too low for a blowout of 16,500 barrels in 72 hours to occur;

(B) if the plan holder demonstrates lower production well pressures which preclude a blowout of 16,500 barrels in 72 hours, the plan holder may propose a smaller volume of discharged oil, no less than the total capacity of the largest oil tank at the facility covered by the plan, or, for a facility with fathering or other pipelines, the volume set out in (4) of this subsection, and shall include in the plan the basis for selecting any lesser volume of discharged oil; and

(C) the department will determine the volume of discharged oil for which the response must be planned in its decision on the contingency plan and will, in its discretion, issue a conditional approval for purposes of this subparagraph;

(4) for a pipeline facility:

(A) the amount of oil which passes a point in the pipeline, at peak levels, during a 12-hour period, unless the plan holder demonstrates that reliable leak detection devices, procedures, and automatic shut-off valves are in place to limit the amount of oil that could be discharged as a result of a break or a leak in the pipeline to a smaller amount; the plan holder shall include in the plan the basis for selecting a lesser volume of discharged oil;

(B) if the plan holder demonstrates that reliable leak detection devices, procedures, and automatic shut-off valves are in place, the plan holder may propose to contain, control, and clean up a lesser volume of discharged oil within 72 hours; the size of the discharge may not fall below the threshold sensitivity of the leak detection device or procedure, nor be less than the volume of oil contained between the four consecutive automatic shut-off valves in the pipeline which are separated by the greatest distance along the pipeline; the plan holder shall include in the plan the basis for selecting any lesser volume of discharged oil; and

(C) the department will determine the volume of discharged oil for which the response must be planned in its decision on the contingency plan and will, in its discretion, issue a conditional approval for purposes of this subparagraph;

(5) for a crude oil tank vessel or oil barge, unless the vessel or barge has been exempted by the department under 18 AAC 75.300(b):

(A) if the vessel or barge has a total cargo capacity of less than 500,000 barrels:

(i) an oil discharge equal to 50,000 barrels, within 72 hours; and

(ii) an oil discharge equal to 80 percent of the total cargo capacity, or 300,000 barrels, whichever is less, within the shortest possible time beyond 72 hours; the plan must demonstrate that any equipment, personnel, and other resources maintained outside the region of operation for response to an oil discharge of this magnitude are immediately accessible to the plan holder and will be deployed and operating at the discharge site within 72 hours;

(B) if the vessel or barge has a total cargo capacity of 500,000 barrels or more:

(i) a discharge equal to 300,000 barrels, within 72 hours; and

(ii) a discharge equal to 60 percent of the total cargo capacity, within the shortest possible time beyond 72 hours; the plan must demonstrate that any equipment, personnel, and other resources maintained outside the region of operation for response to a discharge of this magnitude are immediately accessible to the plan holder and will be deployed and operating at the discharge site within 72 hours;

(6) for a non-crude oil tank vessel or oil barge, contain and control 15 percent of the total cargo capacity within 48 hours, and clean up the discharge within the shortest possible time consistent with keeping damage to the environment at a minimum.

(b) Except for a spill size described in (a)(5)(A)(ii) or (a)(5)(B)(ii) of this section, the response equipment, personnel, and other resources necessary to meet the oil spill response standards in (a) of this section must be maintained within the plan holder's region of operation. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.345. CONTAINMENT, CONTROL, AND CLEANUP REQUIREMENTS. (a) The contingency plan must provide for the use of mechanical response methods of oil control, containment, and cleanup to meet the spill volume preparedness standards in 18 AAC 75.340(a). Mechanical response equipment used to meet the requirements of this subsection must consist of the best available technology. For use in water, response equipment and vessels must be designed to operate effectively in 30-knot winds, 1.5-knot currents, and 10-foot waves, except in areas where the plan demonstrates that environmental conditions of that severity do not occur. The department will, in its discretion, require, as a condition of plan approval, that the plan holder take specific prevention measures, including the temporary cessation of operations until environmental conditions improve, to eliminate or significantly reduce the risk and magnitude of an oil discharge during periods when mechanical spill response methods are rendered ineffective by environmental conditions.

(b) For an oil discharge greater than 500 gallons into water, the response procedures section described at 18 AAC 75.320(c)(3) must include procedures for surveillance, including overflights during daylight hours, or other appropriate means to track movement of the oil, followed by immediate reporting of the spill trajectory information to spill response personnel identified in the plan. The information obtained from spill surveillance and tracking must be used to provide continually updated maps to guide the spill response, based on predictive information regarding currents, tides, and winds, the trajectory of the oil, and expected points and times of contact with the shoreline or other sensitive environmental areas.

(c) For a facility or operation with the potential for discharge into water, the plan must commit to storing and maintaining enough types and amounts of boom, boom connectors, and anchorage devices of the appropriate design for the particular oil product, type of environment, and environmental conditions experienced at the facility or operation. The boom must be of sufficient length to contain the volumes of discharged oil described at 18 AAC 75.340 for each type of facility or operation.

(d) The contingency plan must demonstrate that vessels used to deploy and tow boom must be of a number and size adequate to deploy the boom to meet the response standards of 18 AAC 75.340, and be capable of operating in the manner and at the speeds necessary for the effective use of boom.

(e) The contingency plan must demonstrate that enough oil discharge response equipment, personnel, and other resources are available to exclude spilled oil from sensitive environmental areas and areas of public concern identified in the plan or included as a condition of plan approval by the department. The equipment and other resources for this purpose must be maintained separately from other response resources for the specific purpose of protecting environmentally sensitive areas and areas of public concern. A separate team of response personnel must be identified who will be responsible for deploying the exclusion equipment during a spill. The plan must demonstrate that the exclusion equipment and personnel will be deployed on a time schedule that will protect the identified sensitive environmental areas and areas of public concern before oil reaches those areas under the predicted oil trajectories for an oil discharge of the volume set out at 18 AAC 75.340.

(f) The contingency plan must demonstrate that sufficient lightering equipment and personnel are available to transfer all oil from damaged and undamaged tanks which may be at risk if a spill occurs. Lightering must be completed within 48 hours. Lightering equipment and connecting valves and pumps must be compatible with the facility or vessel to be lightered. The equipment, personnel, and other lightering resources must be maintained separately from other spill response resources and identified for that purpose.

(g) The contingency plan must describe the procedure and the schedule for stopping the discharge from an exploration or production well blowout in the shortest possible time. For an exploration facility, drilling below threshold depths must cease each year in enough time to stop the discharge within the same season and before ice or other environmental conditions make relief well drilling impossible.

(h) The contingency plan must demonstrate that the number and size of skimmers and pumps to be used is adequate for recovery of the type of oil product, the volume of discharged oil, and within the time set for cleanup in 18 AAC 75.340 for each type of facility or operation. Transfer pumps must be compatible with the oil recovery equipment used. In demonstrating the adequacy of the oil recovery equipment, the contingency plan must use realistic efficiency rates for the type of cleanup operation involved to account for the loss in efficiency from the manufacturer's nameplate efficiency rates in actual field recovery operations.

(i) The contingency plan must demonstrate the availability of adequate temporary storage and removal capacity for recovered oil and oily wastes at the site of the spill or nearby to keep up with the skimming and recovery operations and to meet the applicable time limit for control, containment, and cleanup in 18 AAC 75.340.

(j) The contingency plan must demonstrate the onsite ability to separate water from recovered oily water so that any discharge of the recovered water to state waters will meet the requirements of 18 AAC 70. (Eff. / /91, Register)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.350. REQUIREMENTS FOR TRANSFERS BETWEEN PLAN HOLDERS. (a) If approved by the department under this section, a plan holder may furnish to another plan holder, equipment, materials, or personnel to assist in a response to an oil discharge. A description of the proposed transfer which addresses each of the considerations set out in (b) of this section must be included as part of the contingency plan submitted for approval for each plan holder.

(b) The department will, in its discretion, approve a transfer under this section after considering

(1) for a plan holder providing equipment, materials, or personnel:

(A) the amount and types of equipment, personnel, or other resources to be transferred in response to a spill and where it will be transferred;

(B) the number and type of other plan holders reliant upon the provider's response equipment, personnel, and other resources;

(C) the percentage of the provider's response capability that will be reduced by the transfer;

(D) the ability of the provider to replace the response equipment if it is not returned as required by (d) of this section, and an estimate of the time required to replace the equipment;

(E) an estimate of equipment and material breakdown, failure, loss, or destruction that might delay or prevent its return to the provider; and

(F) the ability of the provider to acquire and deploy alternate response equipment if an emergency discharge occurs while equipment, materials, or personnel are transferred;

(2) for a plan holder receiving the equipment:

(A) whether the transfer is part of the recipient's approved contingency plan; and

(B) the time estimated for the response equipment to reach the discharge.

(c) The department will, in its discretion, attach terms and conditions to an approval issued under (b) of this section.

(d) A transfer of equipment, materials, or personnel must be returned or replaced to the provider within 30 days unless the department approves a continuation of the transfer.

(e) The provider shall reorder and replace

(1) equipment or materials exhausted, lost, destroyed, or rendered inoperable as soon the condition is known by the provider; and

(2) equipment and materials expected not to be returned, such as sorbent boom, sorbent pads, dispersant, as soon as they are transferred.

(f) If equipment or materials are not replaced within 30 days from the date of known inoperability or transfer, the plan holder may request an extension from the department. If the extension is denied, the provider shall file for an amendment of its approved contingency plan under 18 AAC 75.310.

(g) Except in response to a major or catastrophic discharge, a plan holder may not transfer response resources to another plan holder if the provider's spill response capability would be reduced to less than 40 percent of the response planning standard established in its contingency plan. If a major or catastrophic oil discharge occurs, the department will, in its discretion, approve an immediate transfer of up to 100 percent of the response equipment, personnel, and other resources.

(h) The department will issue a verbal approval of transfer if the discharge poses an imminent threat to life, property, the environment or other significant public concerns. If the verbal approval is not confirmed in writing within 10 days, the verbal approval is considered withdrawn.
(Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.355. TRAINING. The plan holder shall provide training for designated oil spill response personnel. Training must, at a minimum, be equal to the standards set by the U.S. Occupational Safety and Health Administration or the Alaska Department of Labor, whichever is more stringent, for personnel engaged in oil spill response. In addition, the plan holder shall ensure that personnel are trained and kept current in the specifics of implementation of the contingency plan, including deployment of containment boom, operation of skimmers and lightering equipment, and organization and mobilization of personnel and resources. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.360. DEPARTMENT REVIEW PROCEDURES. (a)
Within 10 days after receipt of an application for approval, the department will review the application and the accompanying contingency plan to determine if they are complete. If the department finds that the content or organization of the application or plan is incomplete, it will notify the applicant, identifying the information required to complete the application or plan.

(b) If the application and the accompanying contingency plan are complete, the department will then begin a 65-day review of the application and the plan, and will

(1) send one copy of the application and the contingency plan, with a notice setting a 34-day comment deadline to

- (A) the Department of Natural Resources;
- (B) the Department of Fish and Game; and
- (C) any affected coastal resource district if the facility or operation is in or directly affects Alaska's coastal zone.

(2) publish two consecutive public notices of the application in a newspaper of general circulation in the area that would be affected by the facility or operation. The notice will include

- (A) the name of the applicant, and the location of the facility or operation covered by the contingency plan;
- (B) a brief description of the proposed facility or operation;
- (C) a statement that copies of the plan are available for review at the department's regional office;
- (D) a statement that any person may comment on the application and the contingency plan by filing written comments with the department's regional office before the deadline stated in the notice; and
- (E) a statement that the state's review of the plan for consistency with the Alaska Coastal Management Program for a facility or operation in or directly affecting Alaska's coastal zone will be coordinated by
 - (i) the department for a facility or operation that does not require federal authorization, or state authorization other than the department's; or

(ii) the division of governmental coordination for a facility or operation which requires state or federal authorizations in addition to the department's approval under this chapter.

(c) If, during the review period, the department finds, on its own initiative, or at the request of a resource agency, affected local government, or affected coastal resource district, that additional information is needed to evaluate the plan, the department will notify the applicant of the information needed by the department and the deadline for submitting the information. The time period for review of the contingency plan will be suspended until the additional information is received. If the applicant fails to provide the requested information within 60 days after receiving the department's request, the department will disapprove the plan.
(Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.365. DEPARTMENT DECISION. (a) After considering the information, analyses, and commitments contained in a complete application for a contingency plan approval, and timely comments submitted by resource agencies, coastal resource districts, and the public, the department will use the criteria set out in this section, and its best professional judgment, in its decision to approve, disapprove, or conditionally approve the contingency plan.

(b) The department's decision on an application for approval of a contingency plan will be issued within 65 days after the application was found to be complete under 18 AAC 75.360, unless an extension is required under 18 AAC 75.360(c). The decision will include

(1) the department's certification approving the plan required by AS 46.04.030(d), including any terms and conditions necessary for approval, or a written disapproval of the plan; and

(2) a statement that a person aggrieved by the department's decision may request an adjudicatory hearing under 18 AAC 15.200.

(c) The department's decision will also be sent to each person who submitted timely comments on the application for approval of the plan.

(d) The department's approval of a contingency plan is effective for no more than three years after the date it is issued. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.370. PROOF OF APPROVED CONTINGENCY PLAN. (a)

The owner or operator of an oil terminal facility may not load oil onto, or unload oil from, a tank vessel or oil barge unless

(1) the operator of the vessel or barge has certified to the facility owner or operator, on a form supplied by the department, that

(A) the tank vessel or oil barge is operating under a current contingency plan approved under this chapter; and

(B) a copy of the current emergency action plan section of the approved plan is on board the tank vessel or oil barge; and

(2) the operator of the vessel or barge has produced for inspection by the facility owner or operator the original, or a true and authentic photocopy of the original, of the department certificate approving the plan.

(b) The owner or operator of an oil terminal facility shall verify on the certification form received from the vessel or barge operator under (a)(1) of this section that the department certificate approving the plan was inspected and found to be a valid, current approval under this chapter, and that the approved emergency action plan was on board the vessel. The facility owner or operator shall then submit the original certification form to the nearest district office within seven days. Service is effective upon personal delivery or transmittal by facsimile to the nearest district office, or on the date of mailing by certified mail to the nearest district office. The department will retain copies of all forms received under this subsection for at least three years after receipt.

(c) On the first working day after a failure or refusal of an operator of a tank vessel or oil barge to comply with the requirements of this section, the facility owner or operator shall report that refusal to the nearest district office by telephone or facsimile.

(d) Verification of the approved contingency plan is required for each separate loading or unloading operation of a tank vessel or oil barge.
(Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.050
AS 46.04.070
AS 46.04.900

18 AAC 75.375. CONTINGENCY PLAN MAINTENANCE AND PERFORMANCE REQUIREMENTS. (a) If a significant change is made to any component of a contingency plan which would affect the plan holder's response capability, the plan holder shall, within 24 hours, notify the department in writing and provide a schedule for its prompt return to operational status. A facsimile delivered to the nearest regional office will be considered written notice for the purposes of this subsection. If the department finds that, as a result of the change, the plan holder is no longer able to execute the contingency plan, it will, in its discretion,

- (1) revoke its approval in accordance with 18 AAC 75.390; or
- (2) amend its approval of the plan in accordance with 18 AAC 75.310.

(b) At least every six months, the plan holder shall

- (1) review and update the names, addresses, and telephone numbers of personnel listed in the contingency plan;
- (2) submit a letter notifying the regional office of any changes since the last update;
- (3) update all copies of its response procedures and emergency action plan; and

(4) test communications equipment listed in the contingency plan.

(c) Equipment to be used for control, containment, or cleanup must be maintained in operational condition. Any equipment, including communications equipment, found not to be operating properly must be repaired or replaced immediately. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.380. INSPECTIONS. To verify compliance with the contingency plan provisions of AS 46.04.030 and this chapter, the department will, in its discretion, conduct announced and unannounced inspections of oil facilities and operations. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.060
AS 46.04.070

18 AAC 75.385. DISCHARGE EXERCISES. (a) The department will, in its discretion, conduct announced and unannounced discharge exercises to assure that the contingency plan is adequate in its content and execution. No more than two exercises will be required of a plan holder in each 12-month period, unless an exercise demonstrates, in the department's judgment, the plan holder's failure to effectively implement the contingency plan.

(b) The plan holder will be considered to have failed a discharge exercise if there is a significant shortfall in the readiness for response and response performance stated in the plan, due to inadequate mobilization or performance of personnel, equipment, other resources, or other factors.

(c) If the plan holder fails a discharge exercise, the department will, in its discretion, require additional exercises until it is satisfied that the contingency plan and its execution are adequate, or will take other appropriate action as described at 18 AAC 75.390.

(d) If the department finds, through a discharge exercise, that the plan holder is unable to execute the contingency plan, it will, in its discretion, take the appropriate action described at 18 AAC 75.390.

(e) The department will, in its discretion, consider a regularly scheduled training exercise initiated by the plan holder as a discharge exercise if the department monitors, evaluates, or participates in the exercise and concurs that it is equivalent to a discharge exercise conducted by the department. The plan holder shall notify the department in advance of the exercise, and provide an opportunity for a representative of the department to be present and participate. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.390. FAILURE TO COMPLY. (a) If a plan holder fails to comply with an approved contingency plan, demonstrates an inability to carry out the approved plan, or is in any other way subject to the requirements of AS 46.04.030(f)(1)--(4), the department will, in its discretion,

(1) revoke its approval of a contingency plan after notice and opportunity for hearing under (d) of this section;

(2) order the plan holder to file an application to amend the plan under 18 AAC 75.3__; or

(3) take other necessary action to correct the failure to comply.

(b) If the plan holder's performance during an oil spill response, inspection, or drill fails to demonstrate an ability to implement the contingency plan, the department will, in its discretion, require the applicant to take corrective action as is necessary to achieve compliance with the approved plan.

(c) If the plan holder's performance during an oil spill response, inspection, or drill discloses shortcomings in the plan as approved, the department will, in its discretion, require the plan holder to apply under 18 AAC 75.310 for an amendment to the plan within 60 days after receiving notice from the department under this subsection. If the plan holder fails to apply for an amendment as requested, the department will revoke its approval of the plan after notice and opportunity for hearing under (d) of this section.

(d) If the department issues a notice of intent to revoke an approval under this chapter, the plan holder may request a hearing to review that decision. The request for review must be made in writing within 10 days after the plan holder receives the department's notice, must be submitted to the regional supervisor, and must include

(1) the name, mailing, address, and telephone number of the plan holder; and

(2) a brief, clear summary of the reasons for requesting the review.

(e) A hearing under this section will be held within 10 working days after the department receives a request for hearing, unless the department and the plan holder agree that the hearing will be held at another time. Immediately after receiving a request for review under (d) of this section, the department will send notice by facsimile to the plan holder of the time and place of the hearing.

(f) If the plan holder fails to appear for the hearing at the time and place stated by in the notice issued under (e) of this section, and if a delay has not been granted by the department, the failure to appear will be considered a waiver of the plan holder's right to a hearing.

(g) A hearing under this section will be recorded, will be heard by the regional supervisor or a designee, and will be informal. The plan holder may

(1) present witnesses and evidence in his or her own behalf;
and

(2) question witnesses, and seek to disprove evidence presented by the department.

(h) Within 10 working days after a hearing under this section, the regional supervisor will issue a final decision, stating the reasons for the decision, and indicating the evidence relied upon in reaching that decision. (Eff. / /91, Register)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.395 and 18 AAC 75.600 are repealed and consolidated with 18 AAC 75.900

18 AAC 75.395. Repealed / /91.

18 AAC 75.600. Repealed / /91.

18 AAC 75.395. REGIONAL MASTER CONTINGENCY PLAN. (a)
The regions described in (1) -- (10) of this subsection, and depicted on the map at Figure 1, are established for the purpose of preparing Regional Master Oil and Hazardous Substance Discharge and Prevention Contingency Plans as required by AS 46.04.210:

(1) **Southeast Alaska Region:** that area of the state east of 142° W. longitude and south of a line just west of Icy Bay that connects the U.S.-Canadian border with the Gulf of Alaska, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(2) **Prince William Sound Region:** that area south of 63°30' N. latitude, west of the region described in (1) of this subsection, and east of the region described in (3) of this subsection, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(3) **Cook Inlet Region:** that area encompassed by the boundaries of the Kenai Peninsula Borough, the Municipality of Anchorage, and the Matanuska-Susitna Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(4) **Kodiak Island Region:** that area encompassed by the boundaries of the Kodiak Island Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(5) **Aleutian Region:** that area encompassed by the boundaries of the Aleutians East Borough and the Aleutians West Coastal Resource Service Area, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(6) **Bristol Bay Region:** that area encompassed by the boundaries of the Bristol Bay Coastal Resource Service Area, the Bristol Bay Borough, and the Lake and Peninsula Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(7) **Western Alaska Region:** that area north of the area described in (6) of this subsection, encompassed by the boundaries of the southernmost boundary of the Bering Straits Regional Corporation, and Regional Education Attendance Area 11 and 5, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(8) **Northwest Arctic Region:** that area encompassed by the Northwest Arctic Borough and the Bering Straits Regional Corporation, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured;

(9) **North Slope Region:** that area encompassed by the boundaries of the North Slope Borough, including adjacent shorelines and state waters, and having as its seaward boundary a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

(10) **Interior Alaska Region:** that area of the state not included in (1) -- (9) of this subsection.

(b) If the department finds that the realistic maximum discharge that could occur in an area beyond the territorial sea would not have a significant adverse impact on the resources of the state or on other interests of the state, the department will, in its discretion, adjust the seaward boundary of a region established in (a) of this section to exclude that area. (Eff. 1/1/91, Register)

Authority: AS 46.04.210

18 AAC 75.900 is repealed and readopted to read:

18 AAC 75.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "applicant" means a person, including a public or private corporation, partnership, association, or any federal, state, or local government, who files an application for approval of an oil discharge prevention and contingency plan as follows:

(A) for a corporation, a principal executive officer of at least the level of vice president or the corporation's duly authorized representative;

(B) for a partnership, a general partner;

(C) for a sole proprietorship, the proprietor; and

(D) for a municipal, state, federal, or other public facility, either a principal executive officer, ranking elected official, or other duly authorized employee;

(2) "area of public concern" means a geographic area which, because of its value to the public, deserves protection from an oil discharge, including

(A) an area of unique cultural value, historical significance, or scenic importance;

(B) an area of substantial public recreational value or opportunity;

(C) an area where facilities such as fish hatcheries and farms are dependant upon the use of potentially affected water; and

(D) an area used for commercial, sport, or subsistence hunting, fishing, and gathering;

(3) "complete and appropriate response" means a response to an oil discharge that meets the requirements of AS 46.04.030 and this chapter;

(4) "contingency plan" means an oil discharge prevention and contingency plan approved under this chapter;

(5) "control" means to stop or restrict the movement of an oil discharge;

(6) "department" means the Alaska Department of Environmental Conservation;

(7) "dispersant" means a chemical agent used to enhance the breakup of concentrations of discharged oil into droplets, thereby promoting mixing of oil into the water column and accelerating dilution and degradation rates;

(8) "environmentally sensitive area" means a geographic area that is sensitive to change or alteration, including

(A) an area of unique, scarce, fragile, or vulnerable natural habitat;

(B) an area of high natural productivity or essential habitat for living resources;

(C) an area of unique geologic or topographic significance which is susceptible to an oil discharge; and

(D) an area needed to protect, maintain, or replenish land or resources, including flood plains, aquifer recharge areas, beaches, and offshore sand deposits;

(9) "estuary" means a semi-enclosed, coastal body of water which has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage;

(10) "facility" or "facility or operation" mean an oil terminal facility, a tank vessel or oil barge, a pipeline, or an exploration or production facility;

(11) "freshwater wetlands" means those environments characterized by rooted vegetation that is partially submerged either continuously or periodically by surface freshwater with less than .5 parts per thousand salt content and not exceeding three meters in depth;

(12) "hazardous substance" means an element or compound that, when it enters into or upon the water or surface or subsurface land of the state, presents an imminent and substantial danger to the public health or welfare or to fish, animals, vegetation, or any part of the natural habitat in which they are found, and includes poisons, pesticides, acids, caustics, infectious or pathological wastes, chemical toilet wastes, radioactive materials, solvents, toxic heavy metals, and oil;

(13) "inside waters of Southeast Alaska" includes all those marine waters lying inside the boundary line established in 33 C.F.R. 82.1705-1730, 42 Federal Register 35791 (July 11, 1977);

(14) "lightering" means pumping or transferring of oil from the cargo compartment of one vessel, barge, storage tank, or container to another vessel, barge, storage tank, or container;

(15) "local government" means any borough, city, town, village, or other political subdivision of the state, any Indian tribe or authorized tribal organization, and includes any rural community or unincorporated town or village;

(16) "major discharge" means a discharge of oil

(A) over 10,000 gallons on inland waters;

(B) over 100,000 gallons on coastal waters; or

(C) in any amount that results in a release that

(i) might require evacuation or sheltering of nearby residents or businesses; or

(ii) causes a serious environmental threat;

(17) "marine water" means all saltwater environments, including saltwater wetlands, estuaries, and the intertidal zone;

(18) "mechanical response method" means the use of containment booms, skimmers, and other apparatus, and equipment required for deployment and operation, to contain, recover, transfer, store, or dispose of oil;

(19) "minor discharge" means a discharge of oil

(20) "oily waste" means any material, including water, that has been contaminated by or mixed with oil in other than naturally occurring circumstances;

(21) "open burning" means the burning of any material so that the products of combustion are emitted directly into the ambient air without passing through a stack or flare;

(22) "operations" means the structures, equipment, and activities included in AS 46.04.900 for exploration facilities, tank vessels, barges, pipelines, production facilities, and oil terminal facilities;

(23) "person in charge" includes, in addition to the person causing or permitting the discharge

(A) for vessels, the master;

(B) for vehicles, the operator; and

(C) the person exercising a possessory interest in the facility or operation at the time of the discharge, unless the possessory interest is being exercised solely for the purpose of providing a place of residence for the person;

(24) "permafrost" means soil or other earth material supporting vegetation with a temperature that remains below 32 degrees Fahrenheit for two or more years;

(25) "pesticide" means any chemical or biological agent intended for preventing, destroying, repelling, or mitigating plant or animal life, and any substance intended for use as a plant regulator, defoliant, or desiccant, including insecticides, fungicides, rodenticides, herbicides, nematocides, and biocides;

(26) "plan" means contingency plan;

(27) "plan holder" means an applicant who has received department approval for an oil discharge prevention and contingency plan, and who is responsible for compliance with the plan as approved;

(28) "Prince William Sound" includes all marine water lying inside the boundary line established in 33 C.F.R. 82.1705-1730, 42 Federal Register 35791 (July 11, 1977);

(29) "resource agencies" means the Alaska Department of Natural Resources and the Alaska Department of Fish and Game;

(30) "saltwater wetlands" means those coastal areas along sheltered shorelines characterized by halophytic hydrophytes and macroalgae extending from extreme low tide to an area above extreme high tide which is influenced by sea spray or tidally induced water table changes;

(31) "sheen" means an iridescent appearance on the surface of the water;

(32) "significant change" means

(A) a nonoperation or removal from designated storage of significant equipment or materials;

(B) a management or ownership change resulting in new chain-of-command or lead response personnel,;

(C) a change in response contractors;

(D) a change in spill control or cleanup strategies; or

(E) any factor which significantly alters or reduces the ability of the plan holder to respond according to the provisions of the approved contingency plan;

(33) "sludge" means a combination of solids and liquids, including an aggregate of oil or oil and matter of any other kind having a combined specific gravity equivalent to or greater than that of water;

(34) "threshold depth" means the exploratory well depth above which major accumulations of hydrocarbons are not likely. (Eff. 4/23/77, Register 62; am / /91, Register)

Authority: AS 46.03.020
AS 46.03.050
AS 46.03.710
AS 46.03.740
AS 46.03.745
AS 46.03.755
AS 46.03.900
AS 46.04.030
AS 46.04.070
AS 46.04.210
AS 46.04.900

Editor's note: Other definitions applicable to this chapter appear at AS 46.04.900.

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DIVISION OF ENVIRONMENTAL QUALITY
P.O. BOX 0, JUNEAU, AK 99811-1800

Telephone No.
(907) 465-2630

February 8, 1991

IMPLEMENTATION SCHEDULE FOR FINANCIAL RESPONSIBILITY REQUIREMENTS

Dear Petroleum ~~Companies~~:
Interested Parties:

The amendments to Alaska Statutes 46.04.040 that were approved in House Bill 567 during the last legislative session were signed into law and are scheduled to become effective on June 1, 1991, until this time new applications for proof of financial responsibility for vessels and facilities must meet existing statutes and regulations.

New regulations are being drafted but because of required reviews and public hearings will not be ready for formal approval until about December of this year, copies will be distributed as soon as printed.

Use of "Letters of Credit" for proof of financial responsibility is approved in the new statutes. The format has yet to be defined in the new regulations. They may not be a viable option at this time; however, we will consider them on an individual basis after June 1, 1991. There should be documentation which verifies that the letter of credit is in the form of an "irrevocable standby letter of credit" specifically to respond to damages required by AS 46.04.040. In addition, letters of credit may also be considered as part of a package for self-insurance.

All current approvals will expire on June 1, 1991. Renewal of approval requires a new application form to be completed and submitted for all vessels and facilities, along with proof of financial responsibility to meet the new financial amounts required for the next yearly period. Upon approval a certificate will be issued for each vessel and facility to show that required proof of financial responsibility has been met.

This notice will give you about 90 days to comply with the May 30 deadline for renewal of the application. The following information will help to answer questions on who must apply and the amounts of proof required under AS 46.04.040.

All vessels and facilities that are not approved by June 30, 1991 will be declared delinquent and will require a letter of

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explanation as to the reason for noncompliance. No action is anticipated to be taken against the applicant for noncompliance at this time (unless circumstances warrant action) if: the applicant shows in writing, to the department, that all means of providing proof have been exhausted; and whatever evidence of coverage that you do have is submitted (even if it does not comply to State requirements). We will assist as much as possible.

APPLICATION FOR APPROVAL

(a) Applications for approval of proof of financial responsibility must be submitted to the department by the following responsible parties:

(1) for an oil terminal facility, by the owner or the operator of facility;

(2) for an oil tanker, oil barge, or any other vessel transporting liquid bulk oil cargo (including landing craft, tenders, and factory processors as defined in AS 46.04.900), by the following responsible parties;

(A) the charterer, if the vessel or barge is chartered by demise (leased);

(B) the owner of the vessel or barge, if the agents or employees of the owner retain control and responsibility for the operation of the vessel or barge;

(C) in any other case by the person with primary operational control;

(3) for an exploration or production facility, whether mobile or fixed, by the lease holder or the operator;

(4) for a pipeline, by the lease holder or the operator.

(b) Application for approval of proof of financial responsibility must be made on forms prescribed by the department. as follows:

(1) Applicants must furnish the department with documents listed on back side of the "financial responsibility application and checklist" available from the Department of Environmental Conservation.

(2) If the applicant is an agency of the United States or the State of Alaska, evidence of financial responsibility is not required. However, the "financial responsibility application and checklist" must be submitted to the department by such agencies.

(3) If the applicant is a tank vessel or barge that is conducting, or is available only for conducting oil discharge response operations, proof of financial responsibility requirements may be exempted by the department providing,

(A) a written explanation giving details of the oil discharge response operations or proposed operations and a completed "financial responsibility application and checklist" form are submitted to the department requesting the exemption, and;

(B) the department reviews and approves the

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request.

(4) An applicant may submit a consolidated application for approval for more than one vessel, barge, terminal, pipeline, or exploration or production facility.

(5) An approval may not be transferred from one vessel, barge, terminal, pipeline, or exploration or production facility to another one or assigned to another person. An attempted transfer or assignment of an approval voids the approval.

(c) All applications described in this section must be signed upon oath or affirmation by the following persons:

(1) in the case of corporations, by a duly authorized representative responsible for the overall management of the project or operation, or his/her designee;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor; and

(4) in the case of a municipal, state, federal, or other public facility, by a duly authorized official or employee.

RENEWALS

(a) Application for renewal of financial responsibility must be made once a year. A proof of financial responsibility which extends beyond a one year period must be submitted on an annual basis by a renewal application to verify and update all current information regarding the status of the proof of financial responsibility.

(b) For a proof of financial responsibility which extends beyond a one year period the due date of the annual renewal application will be on the annual anniversary date of its effective date. An application for renewal must contain the information required by 18 AAC 20.005.

PROOF OF FINANCIAL RESPONSIBILITY, REQUIRED AMOUNTS

(a) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for oil terminal facilities;

(1) for crude oil terminals, \$50,000,000 per incident;

(2) for noncrude oil terminals, for each incident, \$25 per barrel of storage capacity, subject to a minimum of \$1,000,000 and a maximum of \$50,000,000;

(3) for oil terminals storing both crude and noncrude oil the following;

(A) for those with greater noncrude storage capacity than crude storage capacity, \$25 per barrel of combined storage capacity, per incident, subject to a minimum of \$1,000,000 and a maximum of \$50,000,000;

(B) for those with greater crude storage capacity the amount required is \$50,000,000.

(b) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC

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20.005 and 18 AAC 20.025 in the following amounts for pipelines, exploration facilities, and production facilities:

- (1) \$50,000,000 per incident for a pipeline, offshore exploration facility, or offshore production facility;
- (2) \$20,000,000 per incident for an onshore production facility;
- (3) \$5,000,000 per incident for an onshore exploration facility.

(c) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for tank vessels and oil barges:

- (1) for a tank vessel or barge carrying crude oil, per incident, \$300 per barrel of storage capacity subject to a minimum of \$100,000,000;
- (2) for tank vessel or barge carrying noncrude oil, per incident, \$100 per barrel of storage capacity subject to a minimum of \$1,000,000 and a maximum of \$35,000,000.

(d) An applicant who owns, operates, leases or charters more than one or any combination of a tank vessel, oil barge, oil terminal facility, pipeline, production facility or exploration facility must provide proof of financial responsibility in an amount equal to the greatest applicable requirements as prescribed in (a), (b), or (c) of this section. The department may approve such proof of financial responsibility as being applicable to all combined operations listed above providing each is named as being specifically covered by the submitted proof of financial responsibility. Additional owned, operated, leased or chartered tank vessels, oil barges, oil terminal facilities, pipelines, production facilities and exploration facilities may be added to the proof of financial responsibility by submitting a letter requesting an amendment to the application accompanied by documents that verify, to the department's satisfaction, that the additional operation is covered by the current proof of financial responsibility.

Please contact this office if you have questions.

Sincerely,

Glenn Adams
Oil Pollution Control

Deborah Voss

IMPLEMENTATION SCHEDULE
FOR INDUSTRY CONTINGENCY PLANS

TO MEET THE NEW RESPONSE PLANNING STANDARDS

- *These guidelines are intended for the transition period between the present time and the final adoption of the revised Oil Pollution Control regulations on or about December 1, 1991.*
- *These guidelines are necessary to accommodate the June 1, 1991 effective date of the planning standards provisions of HB 567.*

Existing Facilities

- *Under HB 567, all facilities are required to meet new planning standards by June 1, 1991. HB 567 requires that all contingency plans comply with these standards, whether or not they are due for renewal.*
- *In order to ensure continuing approval, existing contingency plan holders must submit to the department any necessary amendments to demonstrate compliance with the new standards by June 1, 1991. The appropriate regional offices will review these amendments and extend approvals if the amended plans meet the provisions of the new law.*
- *Upon adoption of final regulations, the plan holder must, within 60 days, notify the department of what additional amendments to the plan, if any, are necessary to demonstrate full compliance with the final regulations and prepare a contingency plan that incorporates these amendments. Each regional office will develop a schedule for submission and review of these amended plans and notify the plan holders of their required submission date.*

Newly Regulated Facilities

- *The provisions of HB 567 governing newly regulated facilities (pipelines and onshore exploration and production facilities) took effect immediately and these facilities currently must have an approved contingency plan to operate. Facilities without an approved plan will be allowed to continue operations but must submit a plan application no later than March 25, 1991. Newly regulated facilities which have already submitted a contingency plan under the current regulations must prepare and submit any necessary amendments to comply with the new standards by June 1, 1991.*
- *These contingency plans will be reviewed under the current regulations and the new planning standards set by HB 567 and, if they meet these standards, will be granted approvals by the department.*
- *Upon adoption of final regulations, the plan holder must, within 60 days, notify the department of what additional amendments to the plan, if any, are necessary to demonstrate full compliance with the final regulations and prepare a contingency plan that incorporates these amendments. Each regional office will develop a schedule for submission and review of these amended plans and notify the plan holders of their required submission date.*

REQUEST FOR ADDITION TO MAILING LIST

We have made every attempt to reach all affected parties and interested citizens in the mailing of this packet. However, if you or someone you know did not receive this packet, please complete the information below and your name will be added to our mailing list for this packet and for future mailings:

Name_____

Company/Organization_____

Address_____

City_____State_____Zip_____

Affiliation: ☐ Contingency Plan Holder

☐ Government Agency

☐ Citizens' Group

☐ Private Organization

☐ Private Citizen

☐ Other_____

Please return this form to: Willie Howard
Spill Prevention Planning and Management
Dept. of Environmental Conservation
P.O. Box O
Juneau, Alaska 99802
FAX : (907) 789-5673
PHONE : (907) 465-2630

April 3, 1991

Section Analysis - Working Draft, 18 AAC Chapter 20

005 APPLICATION FOR APPROVAL - Subsection (a) outlines "who" must submit an application for approval of financial responsibility to the department. It refers to "responsible parties" for clarification.

~~Subsection (b) explains the general "how" and "when" of the~~ application procedure and also references deviations in the process due to special circumstances.

One significant change in this subsection is the clear statement that the application "must be made on forms prescribed by the department,". You will note that section 105 - **Applicable Forms** located near the end of the current regulations has been deleted in this draft. The language inserted in subsection (b) allows the Department better flexibility in creating or changing the forms to meet the changing needs of the Department and the applicants. Forms are available upon request from the Department's Financial Responsibility Office, P.O. Box O, Juneau, AK 99811.

This subsection also makes reference to parts A & B of the Application. The drafters propose to make minor change to the current Application form, creating a Part A on the front page and Part B on the reverse. This helps to better clarify in the regulations which parts are required to be completed in various circumstances.

Subsection (c) describes "who must sign the application". It also prescribes that the applications be signed under oath or affirmation.

015 TELEXED AND TELECOPIED APPLICATIONS - This section allows for the flexibility on the part of the Department to accept applications via telex or telecopy (fax). The previous section (b) and the latter section of (a) were eliminated as redundant, since an application form includes the information outlined in (b) and the statute is clear in requiring acceptance and approval by the Department of proof of financial responsibility before any operations subject to the statute can be commenced.

025 RENEWALS - This section sets requirements for renewal of previously approved applications as they expire. The language was clarified for readability and to improve the organization of the regulations.

035 PROOF OF FINANCIAL RESPONSIBILITY, REQUIRED AMOUNTS - The title was changed from "AMOUNT AND EVIDENCE OF FINANCIAL RESPONSIBILITY" to better reflect the contents of the section. This section was

rewritten to provide clear guidelines for the specific amount of financial responsibility which must be shown for each type of entity. There are different requirements for various sizes and categories of facilities and vessels.

Subsection (a) outlines the requirements for oil terminal facilities. Part (4) includes the exemption found in AS 46.04.050 for terminals with minimum storage capacities.

~~Subsection (b) outlines the requirements for pipelines, exploration facilities and production facilities.~~

Subsection (c) outlines the requirements for tank vessels and oil barges.

Subsection (d) describes which amounts are required for applicants who own, operate, lease or charters any combination of the above.

Subsection (e) describes additional requirements in the event an applicant is involved in a pollution incident to which the proof of financial responsibility must respond.

Subsection (f) restates AS 46.04.040(e) with respect to the general methods an applicant can use to demonstrate financial responsibility.

Finally, subsection (g) was added to clarify a concern expressed by many applicants and insurers regarding the issue of "unlimited liability". This subsection clearly states that the requirement of an insurance policy or bond to respond to the damages applicable to the statutes listed in AS 46.04.040(e) are subject to the limit of liability contained in such insurance policy or bond submitted as proof of financial responsibility. It does not remove any liability or responsibility which the applicant may be subject to above the limits contained in an insurance policy or bond. This is necessary so that insurers can determine their risk exposure and base a premium upon set limits of liability, which is a fundamental mechanism of insurance. AS 46.04.040 deals only with amounts which must be shown as proof of financial responsibility, and does not affect the liability provisions of other sections of the statutes which apply to the polluter, but which do not apply to an insurer above the set limits in the policy.

036 CERTIFICATE FOR PROOF OF FINANCIAL RESPONSIBILITY - This is a new section implementing AS 46.04.040(j). Additional provisions have been included setting requirements for the display, use, notice of changes and validation of the certificates.

045 FEDERAL MARITIME COMMISSION CERTIFICATE - This section has been repealed. The FMC certificates do not meet all of the requirements contained in AS 46.04.040.

055 SELF-INSURANCE - Language in this section has been changed for clarity and readability. Subsection (e) was added to set standards for the submission of required documents on a timely basis.

065 INSURANCE - This section has been updated and reorganized for clarity. Subsection (a) has been changed to reference the correct statute in Title 21, the Insurance code. ~~AS 21.34.040(c)~~ is the correct statute. AS 21.33.180 was repealed in 1984. Language was also changed to better reflect current insurance terminology and to provide consistency. A specific time period of 90 days replaces the "as soon as possible" language for the requirement to submit a copy of the insurance policy to the Department if the initial proof is in the form of a certificate or binder of insurance. The deductible section in the last paragraph of subsection (a) was removed, revised and placed by itself in a new subsection (d).

An important note: One of HB 567's revisions to AS 46.04.040(e) slightly changed the language regarding the qualifications of an insurer. The change is contained in the sentence reading;

"For purposes of this subsection, an insurer, other than a group of insureds whose agreement has been approved by the Department, must either be authorized by the Department of Commerce and Economic Development to sell insurance in the state or be an unauthorized insurer listed by the Department of Commerce and Economic Development as not disapproved for use in the state."

The regulations currently refer to the "listing" of approved unauthorized insurers by the Division of Insurance (DCED). This has not been changed in this proposed draft as the Division of Insurance does not currently keep a listing of "disapproved" insurers even though it is permitted to do so, on an optional basis, by statute. Instead, it keeps an "approved" listing. Therefore, it is in the best interests of the public to maintain the current standards for insurers. The statute change can be applied to those few insurers who are not on the authorized list but who form part of a "water quality syndicate" formed to provide pollution coverage. These groups are addressed in 18 AAC 20.087 OTHER PROOF OF FINANCIAL RESPONSIBILITY and are allowed to be used even though some of the insurers making up the syndicate may not be on the approved list of the Division of Insurance.

Subsection (b) contains the endorsement language required for all policies issued to meet the purposes of this chapter. It has been modified slightly to better reflect insurance terminology and to remove inconsistencies. It should be noted that part (3) describing the required notice

provisions for cancellation has been changed from 30 days to 60 days to comply with Alaska's cancellation, renewal and nonrenewal laws, specifically, AS 21.36.220 (b). This law applies to all policies issued on business or commercial risks. This includes all shore based facilities. It does not apply to "wet marine" insurance which is issued for vessels above 50 net displacement tons, nor does it apply to Protection & Indemnity (P&I) club policies since P&I clubs are not regulated by the Division of Insurance. Therefore, ~~the section in the draft that deals with the P&I club usage,~~ 087(a)(1)(A), can use the standard 30 days instead of 60 days for policies issued by an insurer. The important distinction here is that P&I clubs are not defined as an insurer under the Insurance statutes, thus the 60 day requirement is not applicable.

Subsection (c) allows the use of a "claims made" policy, under conditions. The current language is confused in that an extended reporting period provision in a claims made policy is not the same thing as a cancellation notice provision, such as part (3) mentioned in the above paragraph. A claims made policy is under the same requirement that all policies are with respect to AS 21.36.220(b) and the 60 day notice requirement. An extended reporting period is something different altogether, and for the purposes of protecting the public interests, a minimum 6 month extended reporting is required if the qualifying policy is a "claims made" form.

Subsection (d) is the new and revised section on deductibles. Of significance is the addition of part (2) which allows for a first dollar reimbursement plan type of deductible, similar to that currently allowed in workers comp policies. This type of provision protects the public interest in that the insurer is required to pay all claims on a first dollar basis, while still allowing for a deductible of sorts, through the loss reimbursement by the insured to the insurer. It is similar in concept to an insurer issuing a bond or letter of credit to the insured for the deductible.

075 SURETY - Language and organization is changed for clarity and readability. The basic intent has not been altered from the current form.

080 GUARANTY - Language and organization is changed for clarity and readability. The basic intent has not been altered from the current form.

086 LETTERS OF CREDIT - This section is new and responds to the inclusion by H. B. 567 of letters of credit as acceptable means of providing evidence of financial responsibility. This section outlines the requirements for their acceptance by the Department.

087 OTHER PROOF OF FINANCIAL RESPONSIBILITY - This new section responds to the inclusion by HB 567 of "other proof of ~~financial responsibility approved by the Department~~, including proof of financial responsibility provided by a group of insureds who have agreed to cover pollution risks of members of the group under terms the Department may prescribe". It includes provisions and standards for the use of P&I clubs, distinguishing between P&I clubs agreeable to state provisions and direct state action and those that are not. It also includes provisions and standards for use of a water quality insurance syndicate. As other sound methods for proving financial responsibility become known, this section can be expanded to include them.

095 SERVICE OF PROCESS - This section requires all applicants to designate an agent for service of process in the state. It remains unchanged from the original.

096 ENFORCEMENT - This section establishes the enforcement provisions and penalties for non-compliance, and, reaffirms the applicant's rights to the hearing process.

105 APPLICABLE FORMS - This section has been deleted for the reasons already cited in the first part of this paper under 005 APPLICATION FOR APPROVAL.

900 DEFINITIONS - This section was added to further clarify the definition in AS 46.04.900 and the use of a vessel when classified as an oil terminal.

CONCLUSION - The draft regulations analyzed herein comprise a working draft. Suggestions are welcome. The goal is to create a set of guidelines that follow the spirit and letter of the financial responsibility laws and yet is well organized, clear and easy to read. We think this is a good start and welcome your input and suggestions. All suggestions should be addressed to: Director, Division of Environmental Quality, P.O. Box 0, Juneau, AK 99811.

Questions may be directed to Mike Mansker or Glenn Adams at (907) 789-4197.

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Register , 1991 ENVIRONMENTAL CONSERVATION 18 AAC 20.005

18 AAC 20.005 is amended to read:

18 AAC 20.005. APPLICATION FOR APPROVAL. (a) Applications for approval of proof of financial responsibility must be submitted to the department by the following responsible parties:

(1) for an oil terminal facility, by the owner or the operator of the facility;

(2) for an oil tanker, oil barge, or any other vessel transporting liquid bulk oil cargo (including landing craft, tenders, and factory processors as defined in AS 46.04.900), by the following responsible parties;

(A) the charterer, if the vessel or barge is chartered by demise (leased);

(B) the owner of the vessel or barge, if the agents or employees of the owner retain control and responsibility for the operation of the vessel or barge;

(C) in any other case by the person with primary operational control;

(3) for an exploration or production facility, whether mobile or fixed, by the lease holder or the operator;

(4) for a pipeline, by the lease holder or the operator.

(b) Application for approval of proof of financial responsibility must be made on forms prescribed by the department as follows:

(1) Applicants must furnish the department with documents listed in Part B of the "financial responsibility application and checklist" available from the Department of Environmental Conservation. The completed and signed form must be submitted to the department at least 30 days before commencement of operations.

(2) If the applicant is an agency of the United States or the State of Alaska, evidence of financial responsibility is not required. However, Part A of the "financial responsibility application and checklist." must be submitted to the department by such agencies within the time frames listed in (1) above.

(3) If the applicant is a tank vessel or oil barge that is conducting, or is available only for conducting oil discharge response operations, proof of financial responsibility requirements may be exempted by the department providing:

(A) a written explanation requesting the exemption, giving details of the oil discharge response operations, or proposed operations, and a completed Part A of the "financial responsibility application and checklist" form are submitted

to the department, and;

(B) the department reviews and approves the request.

(4) An applicant may submit a consolidated application for approval for more than one vessel, barge, terminal, pipeline, or exploration or production facility.

(5) An approval may not be transferred from one vessel, barge, terminal, pipeline, or exploration or production facility to another one or assigned to another person. An attempted transfer or assignment of an approval voids the approval.

(C) all insurance policies must be in effect, approvals will not be given on pending coverage.

(c) All applications described in this section must be signed upon oath or affirmation by the following persons:

(1) in the case of corporations, by a duly authorized representative responsible for the overall management of the project or operation, or, his/her designee;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor; and

(4) in the case of a municipal, state, federal, or other public facility, by a duly authorized official or employee.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.015 is amended to read:

18 AAC 20.015. TELEXED AND TELECOPIED APPLICATIONS. The department may, at its discretion, accept telexed and telecopied applications when unforeseen events prevent a timely submission of a completed written application pursuant to 18 AAC 20.005(b). Telexed or telecopied applications must be approved provisionally by the department before operations may commence in the state. The completed written application must then be submitted and received by the department no later than 10 working days after commencement of operations.

Authority AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.025 is amended to read:

18 AAC 20.025. RENEWALS. (a) Application for renewal of financial responsibility must be made once a year. A proof of financial responsibility which extends beyond a one year period must be submitted on an annual basis by renewal application to verify and update all current information regarding the status of the proof of financial responsibility.

(b) An application for renewal of financial responsibility must be received by the department no earlier than 90 days and

no later than 30 days before the expiration date of the initial approval or previous renewal. For a proof of financial responsibility which extends beyond a one year period the due date of the annual renewal application will be on the annual anniversary date of its effective date. An application for renewal must contain the information required by 18 AAC 20.005(b). Information which remains current and unchanged may be incorporated by reference into Section B of the "financial responsibility application and checklist" form.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.035 is amended to read:

18 AAC 20.035 PROOF OF FINANCIAL RESPONSIBILITY, REQUIRED AMOUNTS (a) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for oil terminal facilities;

(1) for crude oil terminals, \$50,000,000 per incident;
(2) for noncrude oil terminals, for each incident, \$25 per barrel of storage capacity, subject to a minimum of \$1,000,000 and a maximum of \$50,000,000;

(3) for oil terminals storing both crude and noncrude oil the following;

(A) for those with greater noncrude storage capacity than crude storage capacity, \$25 per barrel of combined storage capacity, per incident, subject to a minimum of \$1,000,000 and a maximum of \$50,000,000;

(B) for those with greater crude storage capacity the amount required is \$50,000,000;

(4) oil terminal facilities having effective storage capacities of less than 5,000 barrels of crude oil or less than 10,000 barrels of noncrude oil are exempt from the requirements of this section.

(b) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for pipelines, exploration facilities and production facilities:

(1) \$50,000,000 per incident for a pipeline, offshore exploration facility or offshore production facility;

(2) \$20,000,000 per incident for an onshore production facility;

(3) \$5,000,000 per incident for an onshore exploration facility.

(c) Proof of financial responsibility must be provided to and approved by the department in the manner prescribed by 18 AAC 20.005 and 18 AAC 20.025 in the following amounts for

tank vessels and oil barges:

(1) for a tank vessel or barge carrying crude oil, per incident, \$300 per barrel of storage capacity subject to a minimum of \$100,000,000;

(2) for a tank vessel or barge carrying noncrude oil, per incident, \$100 per barrel of storage capacity subject to a minimum of \$1,000,000 and a maximum of \$35,000,000.

(d) An applicant who owns, operates, leases or charters ~~more than one or any combination of a tank vessel, oil barge,~~ oil terminal facility, pipeline, production facility or exploration facility must provide proof of financial responsibility in an amount equal to the greatest applicable requirements as prescribed in (a), (b), or (c) of this section. The department may approve such proof of financial responsibility as being applicable to all combined operations listed above providing each is named as being specifically covered by the submitted proof of financial responsibility. Additional owned, operated, leased or chartered tank vessels, oil barges, oil terminal facilities, pipelines, production facilities and exploration facilities may be added to the proof of financial responsibility by submitting a letter requesting an amendment to the application accompanied by documents that verify, to the department's satisfaction, that the additional operation is covered by the current proof of financial responsibility.

(e) If an applicant suffers an incident which results in a claim or probable claim for damages for which the proof of financial responsibility is required to respond, the department may, at its discretion;

(1) require the applicant to demonstrate an additional amount of financial responsibility equal to an amount the department determines that may reasonably be expected to cover the resulting applicable damages from the incident, or;

(2) issue a suspension of the proof of financial responsibility if the applicant fails to satisfactorily comply with (1) of this subsection. An applicant may request an adjudicatory hearing under 18 AAC 10.200 within 20 days after receipt of notification of suspension. Such action shall not defer the requirement set by (1) of this subsection.

(f) Proof of financial responsibility may be demonstrated by any one, or by any combination, of the following mechanisms:

1. Self-insurance;
2. Insurance;
3. Surety bond;
4. Guaranty;
5. Letter of credit, or;

6. Other mechanisms approved by the department.

(g) Only with respect to the stated limit of liability contained in an insurance policy or bond submitted as evidence of financial responsibility, an insurer or surety must respond to damages contained in those statutes listed in AS 46.04.040(e) and or (i).

Authority: AS 46.03.020

AS 46.04.050

~~AS 46.04.040~~

AS 46.04.070

18 AAC 20.036 is a new subsection:

18 AAC 20.036. CERTIFICATE FOR PROOF OF FINANCIAL RESPONSIBILITY. (a) Upon the department's approval of an applicant's proof of financial responsibility, a certificate, stating that the state's proof of financial responsibility requirements have been met, shall be issued to the applicant for facilities and/or vessels named in the proof of financial responsibility application.

(b) All facilities and pipelines must keep a copy of the certificate at the facility available for inspection.

(c) All vessels must keep the original or a copy of the certificate available for inspection while in Alaskan waters. The certificate or a copy must be shown to an oil terminal before loading or unloading liquid bulk oil.

(d) Certificates will be issued each year except for vessels that are approved for a specific time period. The effective date and expiration date shall be clearly marked on each certificate.

(e) A certificate is immediately void if it contains erasures or is altered in any manner.

(f) After a Certificate has been issued, the applicant shall notify the department in writing, as soon as reasonably possible, of any changes in facts contained in the supporting documentation or application for proof of financial responsibility.

(g) A Certificate is immediately revoked and void, without prior notice, where the applicant:

1. is no longer the owner, charterer or responsible operator of the facility or vessel in question, or;
2. fails to furnish acceptable evidence of financial responsibility in support of an application for renewal, or;
3. permits the cancellation or termination of the proof of financial responsibility upon which the validity of the Certificate was based.

(h) Except for (e) or (g) above, the department shall advise the applicant in writing of the department's intent to revoke an applicant's Certificate. Such notice shall include an effective date for, and an explanation of, the revocation.

Authority: AS 46.04.040(j)

18 AAC 20.045 is amended to read:

18 AAC 20.045. FEDERAL MARITIME COMMISSION CERTIFICATE.
Repealed

18 AAC 20.055 is amended to read:

18 AAC 20.055. SELF-INSURANCE. (a) An applicant ~~demonstrating financial responsibility with self-insurance~~ must maintain, in the United States, working capital and net worth, each, in an amount equal to the appropriate amount required in 18 AAC 20.035; or, a lesser amount necessary to supplement other forms of proof, when combined, equal to the required amount in 18 AAC 20.035. In determining working capital or net worth, the department will take into consideration all current contractual requirements to which the applicant is bound. For the purposes of this subsection, "working capital" means the amount of current assets located in the United States, less all current liabilities; and "net worth" means the amount of all assets located in the United States, less all liabilities. All self-insurers must notify the department within 10 days after the self-insurer knows, or has reason to believe, that the amount of working capital or net worth of the self-insurer falls below the amount required in 18 AAC 20.035; or, the lesser amount necessary to supplement other forms of proof. This evidence of financial responsibility must be supported by the following, which are to be submitted with the application for an approval and supplemented as specified: .

(1) annual audited financial statements for nonconsolidated holdings in the United States for the fiscal year ending immediately before each initial or renewal application certified by an independent certified public accountant;

(2) a quarterly affidavit attesting that the amounts of working capital and net worth are equal to the amounts required by AAC 18.20.035, which must be received within 30 days after the close of the quarter being attested to;

(3) instead of an affidavit under (2) of this subsection, a quarterly affidavit showing that sufficient liquid assets and cash flow, other than those assets with a high exposure to damage in a pollution incident, are immediately available to respond to claims in the required self-insured amount, without placing the self-insurer in an insolvent position, and, such affidavits must be received within 30 days after the close of the quarter being attested to; and,

(4) any additional financial information the department considers necessary in particular cases.

(b) In place of the information required by (a)(1)-(4) of this section, a self-insuring applicant may provide the

department with the applicant's Form 10K as filed with the U.S. Securities and Exchange Commission for the fiscal year preceding application or renewal, and each Form 10Q subsequently filed with the commissioner, subject to the following conditions:

(1) if the applicant's fiscal year ended six months or more before initial application, the applicant's Form 10Q for the first quarter of the current fiscal year must also be submitted with the initial application;

(2) if the applicant's Securities and Exchange Commission forms do not specify what portion of the working capital and the net worth are located in the United States, each form must be supplemented by an affidavit from the treasurer or a statement certified by the certified public accountant preparing the form specifying that the working capital and net worth located in the United States are each in an amount equal to the amount of financial responsibility required under AS 46.04.040(a)-(c); and

(3) All 10K and 10Q forms subsequently filed with the Securities and Exchange Commission must be simultaneously provided to the department.

(c) In place of the information required under (a)(1)-(4) and (b) of this section, the self-insuring applicant may file with the department the applicant's Form No.6 as filed with the Federal Energy Regulatory Commission for each fiscal year, commencing with the fiscal year which ended immediately preceding application.

(d) Affidavits referred to in (a)(2) and (a)(3) of this section must be signed:

(1) in the case of corporations, by the treasurer or financial officer;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor; and

(4) in the case of a municipal, state, federal, or other public facility, by an authorized official or employee.

(e) A certificate issued under this section may be revoked by the department if any statement, data, or affidavit required by this section is not submitted by the appropriate due date for each type of document. The due dates are as follows:

(1) Forms 10Q and 10K are due at the same time they are required to be filed with the U.S. Securities and Exchange Commission.

(2) Form No. 6 is due at the same time it is required to be filed with the Federal Energy Regulatory Commission.

(3) Annual Audited Reports and Quarterly Affidavits are due 30 days after the year or quarter ending.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.065 is amended to read:

18 AAC 20.065. INSURANCE. (a) An applicant demonstrating financial responsibility through insurance must provide evidence of insurance issued by an insurer which is either ~~authorized to sell insurance in the State of Alaska under a~~ certificate of authority issued by the Director of the Division of Insurance of the Department of Commerce and Economic Development, or is an unauthorized insurer listed by the division of insurance as meeting the minimum trust or capital and surplus requirements of AS 21.34.040(c). Evidence of insurance may be provided by a binder or certificate of insurance acceptable in form to the department or by a copy of the policy. However, when a binder or certificate of insurance is submitted, a copy of the underlying insurance policy must be provided to the department within 90 days.

(b) If a policy of insurance, certificate or binder is submitted, it must include an endorsement containing the following, or substantially similar language:

"Any other provision of this policy notwithstanding: (1) this policy insures against any liability the insured may incur under Alaska Statutes 46.04.040(i), or any provision cited in it as a result of an unlawful discharge of oil within or affecting land or water within the territorial jurisdiction of the State of Alaska; however, the insurer's liability does not exceed the limits of coverage set out in Section (Article or Clause) _____ of this policy, subject to any deductible as specifically set out in Section (Article or Clause) _____ of this policy (binder, certificate); (2) the insurer agrees that any final judgment against the insured for damages under AS 46.04.040(i) resulting from an unlawful discharge of oil from or by any vessel or facility named in this policy may be enforced or executed, in Alaska state courts, directly against the insurer, subject to the limits of coverage in this policy; the insurer will be bound by such a judgment as if the judgment were against the insurer; any person obtaining such a judgment against the insured is expressly made a third-party beneficiary of this provision; and, (3) termination or cancellation of this policy, insofar as it relates to the insured's liability arising from a discharge of oil within or affecting the land and water within the territorial jurisdiction of the

State of Alaska, shall not become effective until 60 days after notice in writing has been posted (prepaid and certified) by the insurer to the insured and to the Alaska Department of Environmental Conservation at its office in Juneau, Alaska; however, this policy shall apply to all claims occurring before the termination or cancellation date."

(c) ~~An applicant may submit a "claims made" policy~~ providing it contains an extended reporting period of a minimum of 6 months, and it contains the endorsement language required in (b) above.

(d) A deductible provision in any policy of insurance, binder, or certificate shall be acceptable when:

(1) the applicant shows supplemental coverage for the amount of the deductible by means of other acceptable insurance, surety bond, guaranty, self-insurance, letter of credit, or other proof of financial responsibility approved by the department; or,

(2) the deductible provision provides for a "loss reimbursement plan" which contains language guaranteeing that the insurer shall be responsible for the payment of all claims on a "first dollar" basis.

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.075 is amended to read:

18 AAC 20.075 SURETY (a) An applicant may demonstrate financial responsibility with a contract of surety (Surety bond), in full or in part, as required by 18 AAC 20.035. The applicant must submit the contract of surety (Surety bond) to the department on forms prescribed by the department.

(b) The issuer of the contract of surety (Surety bond) must be registered to do business in the State of Alaska, possess a current certificate of authority to do business with the United States under 31 CFR, and must possess an underwriting capacity at least equal to the amount of the bond or is lesser amounts necessary to supplement other forms of proof of financial responsibility.

(c) An applicant may demonstrate financial responsibility for an amount equal to the "deductible" of an insurance policy submitted under 18 AAC 20.065, by a contract of surety (Surety bond).

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.080 is amended to read:

18 AAC 20.085 GUARANTY (a) An applicant may demonstrate financial responsibility with a contract of guaranty (Guarantee), in full or in part, as required by 18 AAC 20.035. The applicant must submit the contract of guaranty (Guarantee) to the department upon forms prescribed by the department.

(b) The issuer of the guaranty contract, the guarantor, must meet the working capital and net worth requirements contained in 18 AAC 20.055.

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.086 is a new section:

18 AAC 20.086. LETTERS OF CREDIT. (a) An applicant may demonstrate financial responsibility with a letter of credit for amounts in full or in part as required by 18 AAC 20.035. The letter of credit submitted must be:

(1) irrevocable for a period of not less than 2 years on the part of the issuer; providing the applicant has had no oil pollution incidents resulting in claims under AS 46.04.040(1) during the 2 year period; and,

(2) irrevocable until satisfaction of a judgement or of claims, subject to the limit of credit, rendered against the applicant as a result of claims under AS 46.04.040(1) which do occur during its term; and,

(3) be a "stand by" letter of credit, to respond specifically to claims as required in AS 46.04.040, subject to its limit of credit; and,

(4) not be used as collateral or be drawn upon by the applicant for any other purposes other than to respond to claims as required in AS 46.04.040 for as long as the letter of credit is used by the applicant as a method of showing proof of financial responsibility under this chapter; and,

(5) issued by a financial institution acceptable to the department as having the financial solvency to satisfactorily meet the obligations contained in the letter of credit.

(b) An applicant using a letter of credit to show full or partial proof of financial responsibility shall appoint an agent for service of process in the state in the manner prescribed by 18 AAC 20.095(a).

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.087 is a new section:

18 AAC 20.087. OTHER PROOF OF FINANCIAL RESPONSIBILITY.

(a) An applicant may demonstrate financial responsibility

with a contract of indemnity or insurance issued by a group of insureds who have agreed to cover pollution risks of members of the group. This method must be approved by the department under terms prescribes below. The following groups may be considered and approved on an individual basis by the department:

(1) Protection and Indemnity (P&I) Clubs. A P&I club may be acceptable to the department as a method of demonstrating financial responsibility providing;

~~(A) the contract of indemnification issued by the~~ P&I club contains an endorsement or the language required by 18 AAC 20.065(b); and,

(B) is issued by a P&I club acceptable to the department as having the financial solvency and a favorable history of claim handling to satisfactorily meet the obligations contained in the contract of indemnity; and,

(C) the P&I club appoints an agent for service of process in the state in the manner prescribed by 18 AAC 20.095(a).

(2) P&I clubs which do not agree to be subject to direct action in Alaska state courts, or, which do not agree to appoint an agent for service of process in the state may be used to demonstrate financial responsibility only for excess coverage in amounts greater than \$50,000,000. Such P&I clubs may be used to demonstrate financial responsibility only under the following circumstances:

(A) the applicant has demonstrated underlying financial responsibility by other acceptable methods, which contain the language required by 18 AAC 20.20.065(b), in an amount of \$50,000,000; and,

(B) the contract of indemnification issued by the P&I club contains language which verifies that it will respond to damages contained in the statutes listed in AS 46.04.040(e); and,

(C) the applicant provides the department with a sworn statement or affidavit that insurance or other forms of financial responsibility that meet the requirements of AS 46.04.040(e) are not available in amounts necessary to demonstrate financial responsibility as required in 18 AAC 20.035.

(3) Water Quality Insurance Syndicate policies may be used to demonstrate financial responsibility providing:

(A) they contain language required by 18 AAC 20.065(b); and,

(B) the syndicate appoints an agent for service of process in the state in the manner prescribed by 18 AAC 20.095(a); and,

(C) the syndicate is acceptable to the department as having the financial solvency and a favorable history of claim handling to satisfactorily meet the obligations contained in the policy.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.095 is amended to read:

18 AAC 20.095. SERVICE OF PROCESS. (a) The applicant shall designate an agent upon whom service of process may be made in this state. The agent must be a resident of this state or a corporation authorized to do business in the state. If ~~no designation is made and filed~~ or if process cannot be served in this state upon the designated agent, process may be served upon the commissioner of the Department of Environmental Conservation.

Authority: AS 46.03.020

AS 46.04.040

AS 46.04.070

18 AAC 20.096 is a new subsection:

18 AAC 20.096. ENFORCEMENT. (a) To ensure that the provisions of AS 46.04.040(a)-(c) are fully complied with, any party required to submit proof of financial responsibility under 18 AAC 20.005, after notice and opportunity for a hearing, who fails to provide evidence of financial responsibility in compliance with this chapter, shall be subject to a maximum penalty of ten thousand dollars per day. In addition, action may be taken by the department to cease operation of a vessel or facility not in compliance with this chapter. The department may levy the maximum penalty for each day during the period between an occurrence of an owner or operator failing to provide evidence of financial responsibility and the receipt by the department of such evidence. The penalty amount may be adjusted to an amount less than the maximum, at the discretion of the department, but in no case shall be reduced below a minimum penalty of one thousand dollars per occurrence.

(b) An oil terminal facility shall not load or provide liquid bulk oil product to any tank vessel or oil barge, if the oil product is declared as cargo (see definitions AS 46.04.90), without the vessel or oil barge providing proof to the terminal operator that the vessel has a current valid certificate of financial responsibility. The owner or operator of an oil terminal facility shall notify the department's nearest district office by phone, within the first working day, after the failure or refusal of a vessel or oil barge operator to comply with the requirements of this section.

(c) The department may deny entry to any tank vessel or oil barge to navigable waters of the state, or may detain any vessel or oil barge that does not produce, upon the department's request, evidence of financial responsibility required for a vessel or oil barge under this chapter.

Authority: AS 46.03.020

AS 46.04.040
AS 46.04.070

18 AAC 20.105 is deleted.

18 AAC 20.900 is a new section:

18 AAC 20.900 DEFINITIONS. (a) OIL TERMINAL FACILITY as defined in AS 46.04.900 states that a "vessel is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil and an oil terminal facility." This definition is further defined to include the period of time when the vessel is at the terminal being loaded.

If the vessel is to be classified as an Oil Terminal it must meet the following requirements: Submit a written request detailing the name of the owner/operator, vessel name and official number, oil storage capacity, type of product carried as cargo, and the period of time for such a use.

Upon approval, a certificate will be issued to the vessel, for the prescribed time period, to confirm the vessel as an oil terminal.

The applicant must meet the financial responsibility requirements of AS 46.04.040(a) if the vessel capacity is more than 10,000 barrels, if less than this amount, the vessel is exempt from this requirement.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

Walter J. Hickel, Governor

FEB 07 1991

Molly

HOUSE OF REPRESENTATIVES, OIL AND GAS COMMITTEE MEETING: FEBRUARY 4, 1991 3:00 PM

ADEC PARTICIPANTS: John Sandor, Commissioner Mead Treadwell, Deputy Commissioner
Janice Adair, Special Assistant
Lynn Kent, Oil & Hazardous Response Spill Manager

SUBJECTS: Status of State Emergency Response Commission (SERC)
Status of Oil and Hazardous Substance Contingency Plans (Fed/State/Local/Industry)
Status of Cooperative Programs/Relationships with communities; public involvement
Status of Development of Regulations to implement House Bill 567 (Oil Spill)
Status of implementation of House Bill 220 (Underground Storage Tanks)
Discussion of Budget/Personnel issues
Discussion of related issues

1. INTRODUCTION AND OVERVIEW

A. DEC Areas of Emphasis in 1991-1992

- Cooperative efforts with communities & citizen's groups; technical service
- Cooperative efforts with federal/state/international/public-private groups
- Complete Exxon-Valdez oil spill clean-up
- Contingency planning -Other program emphasis activities

B. Public involvement commitment

- Within-between Federal/State/Local Government; international contacts
- Relationship to development of National, Federal Regional, State and Regional Contingency Plans; Local Response and Industry Plans

2. STATUS OF STATE EMERGENCY RESPONSE COMMISSION (SERC)

- A. Commission Membership and Meeting Plans
- B. Local Emergency Planning Committees
- C. Other Associated Activities

3. STATUS OF OIL AND HAZARDOUS SUBSTANCE CONTINGENCY PLANS

- A. State and Regional Contingency Plan issued in October
- B. Regional Planning Process
- C. Local Response Plans
- D. Industry Plans

4. STATUS OF REGULATIONS TO IMPLEMENT HOUSE BILL 567 PROVISIONS

A. Regulations include three components

- 1. Prevention
- 2. Financial Responsibility
- 3. Response

B. Implementation Schedule for Industry Contingency Plans

- 1. Workshops with working draft of prevention section; Work groups
- 2. Education and Assistance activities
- 3. July 1, 1991 Target date for public notice followed by public hearings
October 1, 1991 target date for Dept. of Law Review
December 1, 1991 target date for Regulations approval

5. STATUS OF IMPLEMENTATION OF HOUSE BILL 220 (UNDERGROUND STORAGE TANKS)

6. DISCUSSION OF OTHER ISSUES

MAJOR STATE & FEDERAL ENVIRONMENTAL LAWS

State

Water, Air, Energy, and Environmental Conservation (Title 46)
Oil Pollution Control
Oil and Hazardous Substance Release Control
Wastewater Disposal
Drinking Water
Water Quality Standards
Hazardous Waste
Environmental Sanitation
Food Service
Fish Inspection
Alaska State Emergency Response Commission
Underground Petroleum Storage Tanks
Certification of Water and Wastewater Operators
The Alaska Coastal Management Program
Low-Level Radioactive Waste Management
Dairy, Meat and Poultry Inspections
Animal Health
Pesticide Control
Recycling and Reduction of Litter
Village Safe Water Act
Management and Use of Water in Mining
Smoking in Public Places

Federal

Clean Air Act
Clean Water Act
Coastal Zone Management Act
Resource Conservation and Recovery Act (RCRA)
Comprehensive Environmental Response, Compensation, & Liability Act (CERCLA)
Safe Drinking Water Act
Toxic Substance Control
Endangered Species Act
Marine Mammal Protection
International Migratory Bird Treaty
Oil Pollution Control Act
Insecticide, Fungicide and Rodenticide
Emergency Planning and Community Right-to-Know Act
National Environmental Policy Act (NEPA)
Solid Waste Regional Act



ADEC

Significant Issues

- 470 Fund
- Funding of UST Grants
- Safe Drinking Water
- Wetlands
- Home Heating Oil Tanks
- Hazardous Substances
- Waste Disposal Sites
- Pollution Prevention

Calendar of Events

December

- New administration
- Personnel audit commissioned
- Reorganization study commissioned

January

- Reorganization study complete
- Budget revisions
- HB 567 draft Regs for public comment
- HB 220 ready to be signed by Commissioner
- Internal 470 audit commissioned
- Personnel audit complete

February

- State - EPA agreement negotiations
- Unalaska model agreement
- District community contacts designation
- "Co - Siting" plan with other resource agencies

March

- 470 fund audit complete
- HB 220 tank registration complete
- SERC meeting
- San Diego Oil Spill Conference
- HB 567 workshops / public hearings

April

- Exxon Valdez joint effort with Coast Guard

June

- Biannual program manager review

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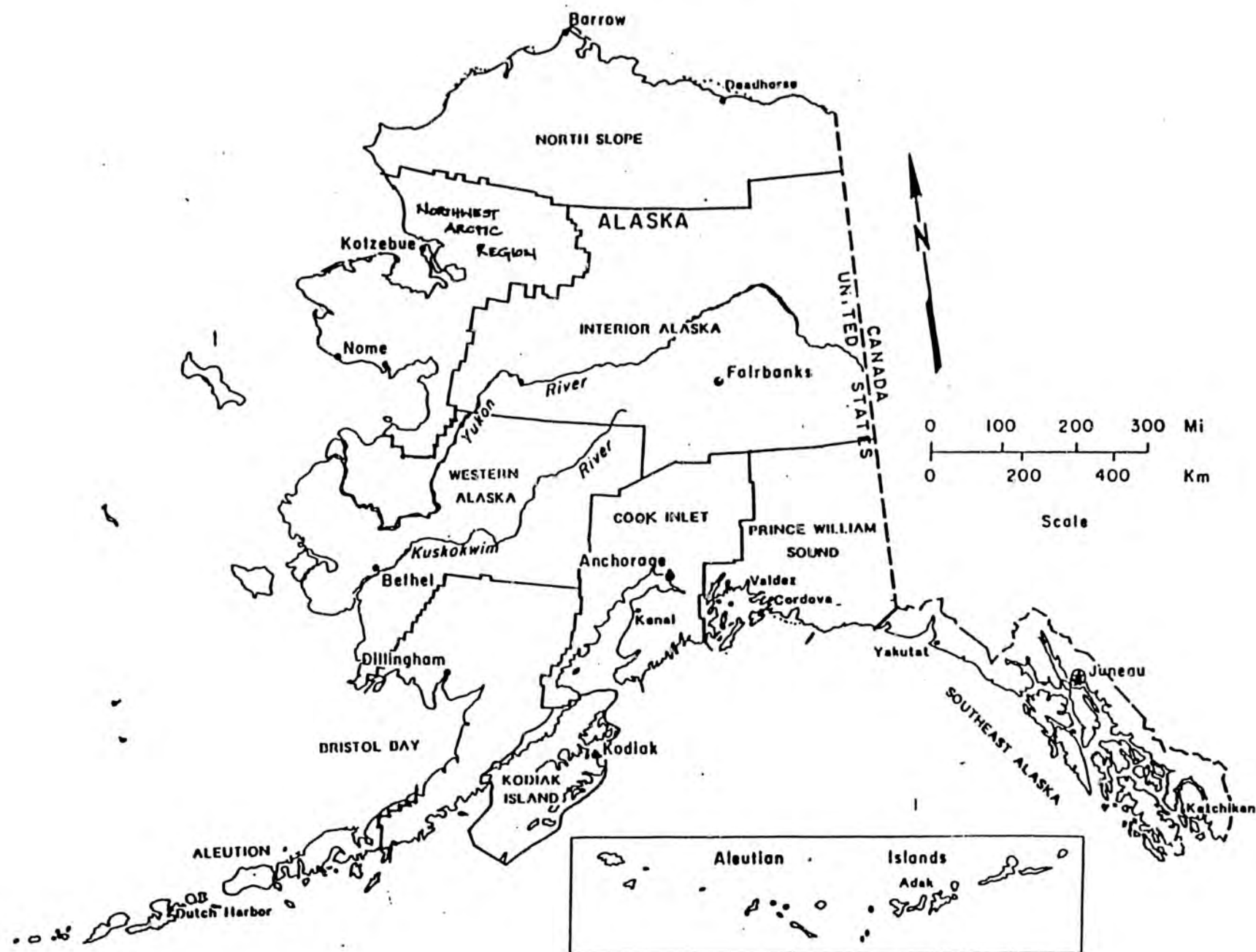
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FIGURE 1



State Emergency Response Commission (SERC)

COMPOSITION

- Nine state agency Commissioners
- Seven Public Members

DUTIES

- Oversee the implementation of the Emergency Planning and Community Right-to-Know Act (SARA, Title III)
- Facilitate the preparation and implementation of oil and hazardous substance response plans prepared by state agencies and Local Emergency Planning Committees (LEPC)
- Ensure that all plans are coordinated and well-integrated

EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW

- Designate Local Emergency Planning Districts (LEPD)
- Oversee the preparation of local oil and hazardous substance emergency plans
- Establish Local Emergency Planning Committees (LEPCs)
- Make information available to the public on hazardous substances used, stored, or manufactured in the state

Local Involvement

- Establish Local Emergency Planning Committee
- Develop a local oil and hazardous substance emergency response plan
- Implement the plan and maintain preparedness
- Enter into an agreement with the Department for reimbursement of expenditures for spill response

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ALASKA STATE EMERGENCY RESPONSE COMMISSION

Fact Sheet

Background

The Superfund Amendments and Reauthorization Act (SARA) was enacted by the United States Congress in 1986. Title III, the Emergency Planning and Community Right-to-Know Act, includes provisions intended to prevent chemical disasters such as that which occurred in Bhopal, India in 1984.

SARA Title III has two broad purposes: 1) the law gives citizens the right to know what hazardous substances are being used, stored, or manufactured in their community; and, 2) the law encourages them to prepare emergency plans for responding to chemical releases.

The law sets specific responsibilities for the State, communities, and businesses which use hazardous substances. However, it explicitly does not preempt the State or local governments from enacting Community Right-to-Know laws which better address their particular needs.

As required by federal law, the Alaska State Emergency Response Commission (SERC) was established by Administrative Order 103 in 1987. House Bill 566, passed during the 1990 legislative session, established the SERC in statute (AS 46.13). In addition to the requirements under federal law, the state law:

- requires the SERC to oversee the implementation of SARA Title III in Alaska;
- broadens the definition, as used in the federal law, of hazardous substance to include oil; and
- broadens the SERC's role, giving the Commission the responsibility for ensuring that local, regional, and statewide contingency plans are well-integrated and coordinate with other relevant plans such as the National Contingency Plan, other federal plans, and facility and vessel contingency plans.

With the passage of the state law, the Department's SERC program also gained the budgetary support needed to implement an effective community right-to-know program in the state.

Status of Implementation

- Since its formation in 1987, the SERC has held ten quarterly meetings. Over the past six months, the focus of the Commission's activities has been implementation of the state law i.e., revising the SERC's FY 91 Work Plan, the SERC bylaws, and its internal organization.
- Five Local Emergency Planning Committees (LEPC) have been formally established by the Commission: Fairbanks North Star Borough; Kodiak Island Borough; Kenai Peninsula Borough; City and Borough of Sitka; and City of Yakutat.
- Several communities/boroughs are in the process of establishing LEPCs and have submitted applications to the SERC to be formally recognized: Municipality of Anchorage, Ketchikan Gateway Borough, and Matanuska-Susitna Borough.

Current Issues

- **Funding for communities to establish basic preparedness for oil and hazardous substance releases.** Lack of funding has been a major impediment to implementing the federal law in Alaska. This Fiscal Year \$120.0 has been allocated to provide funding for locals to establish LEPCs; develop local oil and hazardous substance emergency response plans; and maintain preparedness. For FY 92, the Department has requested \$600.0 to continue this assistance program.
- **Establishing Local Emergency Planning Districts (LEPD) in the remainder of the state.** LEPDs and the plans prepared by LEPCs comprise an important component of a comprehensive contingency planning effort. Local spill response plans must be coordinated with Regional and State plans currently under development by the Department. A proposal (Attachment 1) for dividing the state into 20 LEPDs is currently being drafted by Department staff for consideration by the SERC and local governments. The proposal provides a rational basis for establishing LEPDs within a framework which will help ensure that the entire state is covered in accordance with federal and state law, and that local plans coordinate with regional and state plans.
- **Liability of SERC, LEPC members and others.** A recent opinion from the Attorney General's office indicates that, in carrying out their duties under state law, liability may exist for members of the SERC, LEPCs, as well as members of the Hazardous Substance Spill Technology Review Council. As a temporary solution, a proposed memorandum of agreement between the Department of Law and the Department of Administration/Division of Risk Management to indemnify all parties except in cases of gross negligence has been drafted (Attachment 2). Legislation was acknowledged as the preferred solution. We have requested continued assistance from the Attorney General's office to draft this legislation.
- **Regulations.** Under state law, the SERC has the authority to promulgate regulations necessary to implement state law. Preliminary discussions with the Attorney General's office suggest that certain procedures and policies which the SERC has developed or is in the process of developing should be in regulation (e.g., procedures for reviewing local hazardous substance emergency response plans and criteria for approving them). Department staff are working with Department of Law to develop recommendations for draft regulations for review by the SERC.
- **Public outreach.** Although the SERC has been active for over three years, general public awareness of the program is lacking. Staff are currently working to develop public information materials and a public information plan to heighten public awareness. We are targeting both the general public and those businesses which need to report on the amounts and types of chemicals which they use, manufacture, or store.
- **Training for first responders and LEPCs.** In conjunction with the Division of Emergency Services, a funding proposal has been submitted to the Federal Emergency Management Agency (FEMA) to provide training for Alaskans involved in spill response and contingency planning. In addition, there is a need for greater coordination of training between all the state agencies with regulatory authority over hazardous materials training and/or responsibilities for spill response. Since the member agencies of the State Emergency Response Commission (SERC) include all these agencies, the SERC could potentially act as a forum where this could be accomplished. The SERC's Training Committee will be asked to begin developing a comprehensive training plan for response personnel which ensures that all relevant laws and regulations are satisfied and that workers are adequately trained.
- **Development of technical resources.** State and federal laws require the SERC to make information on hazardous materials submitted by businesses available to the public. This information is necessary for communities to develop emergency plans for hazardous substance releases. Department staff are currently developing the Community Right-to-Know Database (CRight) which will contain information submitted by facilities throughout the state in compliance with state and federal laws. In addition, staff are evaluating computerized reference data bases to provide enhanced technical support to LEPCs.

STATE OIL AND HAZARDOUS SUBSTANCE DISCHARGE PREVENTION AND CONTINGENCY PLAN

ADEC

Public
Review
Draft
Released

Public
Meetings

Revise
Draft

Second Draft
transmitted to
Legislature;
begin public
review

Final Draft
Transmitted to
SERC for approval

SERC

Develop
list of
required
plan
elements

Develop
review and
approval
criteria

SERC receives
Draft Plan;
begins public
notice

Emergency
Response
Committee
reviews plan
and makes
recommendations

SERC
Approval

Oct
1990

Nov
1990

Dec
1990

Feb 20
1991

March 29
1991

June
1991

Major Provisions of House Bill 567

- 1) Limits the liability of response action contractors.
- 2) Adds prevention as an element of contingency plans.
- 3) Certificates will be provided to contingency plan holders upon approval of the plan by the department.
- 4) Requires an applicant for a contingency plan to plan for the cleanup of the following discharges:
 - Oil terminal facilities** - Contain or control and clean up a discharge equal to the largest tank at the facility within 72 hours;
 - Exploration or production facilities or pipelines** - Contain or control and clean up to the realistic maximum discharge within 72 hours;
 - Oil tank vessel or barge** - Vessels smaller than 500,000 barrels must plan to contain or control and clean up a 50,000 barrel discharge and have the equipment within the region of operation, while vessels larger than 500,000 barrels must plan to contain or control and clean up a 300,000 barrel discharge and have the equipment within the region of operation; additionally, the plan holder must demonstrate access to other equipment outside of the region of operation to clean up a realistic maximum discharge, and the ability to have that equipment deployed at the discharge site within 72 hours;
 - Non-crude tank vessel or barge** - Contain or control the greater of 15% of the capacity of the vessel or the realistic maximum discharge within 48 hours and clean up the discharge within the shortest possible time consistent with minimizing damage to the environment.
- 5) Sets financial responsibility requirements at the following levels:

Crude oil terminals	\$50 million
Non-crude oil terminals	\$1-50 million @ \$25/bbl capacity
Offshore exploration/production	\$50 million
Pipelines	\$50 million
Onshore production facilities	\$20 million
Onshore exploration facilities	\$ 5 million
Crude oil tank vessels & barges	\$100+ million @ \$300/bbl capacity
Non-crude tank vessels & barges	\$1-35 million @ \$100/bbl capacity
- 6) Proof of financial responsibility will be acknowledged with a certificate of approval. Allows the use of Protection and Indemnity clubs.
- 7) Authorizes DEC to participate in the examination of vessels, barges, pipelines and facilities by federal and state agencies with jurisdiction and to do independent inspections when the department determines that federal or state agencies with jurisdiction are not performing timely or adequate inspections.
- 8) Authorizes DEC to survey non-crude oil terminal facilities with a storage capacity between 5,000 - 10,000 barrels.
- 9) Requires DEC to study and make recommendations to the legislature concerning the oil discharge response capabilities necessary for non-crude tank vessels and barges.
- 10) New planning standards and financial responsibility requirements take effect June 1, 1991.

HOUSE BILL 567 - MAJOR PROVISIONS

- 1. Enhanced industry spill response planning standards / Realistic Maximum Oil Discharge (RMOD)**
- 2. Required incorporation of prevention measures in industry contingency plans and allows the Department to reduce the response planning standards when selected prevention measures are implemented**
- 3. Increased the amount of financial responsibility required of oil handlers and allows for additional methods to demonstrate proof of financial responsibility**

567 Regulations Package

1991

15 FEB.

Public interaction

- Public workshops
- Work group
- Education and assistance

1 JUNE

Significant comments
incorporated

1 JULY (public notice)

Public hearings

1 SEPT.

Final changes

1 OCT.

Dept. of Law review

1 NOV.

to Lt. Governor

1 DEC.

Regs effective

1 JAN.

1992

1 FEB.

Amendments to C-plans are
to be completed

Public Interaction

- (1) **Public workshops and briefings throughout state**
-to address all aspects of the implementation package

(2) **Workgroup**

[Includes representatives from all five categories
of oil facilities; other interests; the public]

(A) **Prevention Committee**

- Prevention measures
- RMOD reductions
- Inter-industry cooperation
- Public interaction
 - Public involvement in industry planning
 - Public involvement in response
- Implementation of new technologies

(B) **Financial Responsibility Committee**

- Forms of Acceptable proof

(C) **RMOD Committee**

- RMOD by facility category
- RMOD increases for sensitive areas
- Inter-industry cooperation
- Public interaction
 - Public involvement in industry planning
 - Public involvement in response
- Implementation of new technologies

- (3) **Educational and assistance materials and activities**

IMPLEMENTATION SCHEDULE
FOR
INDUSTRY CONTINGENCY PLANS
TO MEET THE NEW RESPONSE PLANNING STANDARDS

- These guidelines are intended for the transition period between the present time and the final adoption of the revised regulations on or about December 1, 1991.
- These guidelines do not require any changes to existing law or any of the provisions of HB 567 as adopted.

Existing Facilities:

- Under HB 567, all facilities are required to meet the new planning standards by June 1, 1991. As contingency plans come up for renewal between now and the date of adoption of the new regulations, the department will issue conditional approvals allowing these facilities to continue to operate under their existing or enhanced plan.
- As a condition of approval the plan holder, within 60 days of the date of adoption of the new regulation, must notify the department of what amendments to the plan, if any, are necessary to demonstrate compliance with the new standards and prepare a C-plan that incorporates these amendments.
- Each regional office of the department will develop a schedule for submission and review of the amended C-plans and will notify the plan holders of their required submission date. This will allow flexibility in workload management and allow for a more thorough review of the revised plans.

Newly Regulated Facilities:

- The provisions of HB 567 governing newly regulated facilities (pipelines and on-shore exploration and production facilities) took effect immediately, and these facilities currently must have an approved C-plan to operate. The department will require these newly regulated facilities to submit a contingency plan application no later than June 1, 1991.
- These C-plans will be reviewed under the current regulations and, if they meet current standards, will be granted conditional approval pending promulgations of final regulations as described above. Upon promulgation, newly regulated facilities will have 60 days to notify the department of any necessary changes and prepare an amended plan which meets the new standards.
- The department will notify these facilities of the required submission date of their revised plan according to the review schedule adopted by the regional offices.

Attachment A.

HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW COUNCIL
BRIEFING PAPER

INTRODUCTION

The Hazardous Substance Spill Technology Review Council (hereafter referred to as "the council") was established by the passage of House Bill No. 566 (HB 566) by the Sixteenth Legislature in 1990. HB 566 is entitled: "An Act relating to state response actions and planning involving the release or threatened release of oil or a hazardous substance; and establishing the Alaska State Emergency Response Commission (SERC); and providing for an effective date." In the sections of HB 566 dealing with the council, it was found that there exists a lack of scientific knowledge concerning the availability, properties, and effectiveness of various hazardous substance containment and cleanup techniques. The council was established to assist in the identification of containment and cleanup products and procedures for arctic and sub-arctic hazardous substance releases. The council is to make recommendations to the departments and agencies of the state regarding the use and deployment of these products and procedures.

COMPOSITION

STATE POSITION MEMBERS

Commissioner of Environmental Conservation
Adjutant General of the Department of
Military and Veterans' Affairs
Governor's Senior Science Advisor

APPOINTED STATE MEMBERS

University of Alaska Representative
Prince William Sound Science Center Representative
Representative from the First Judicial District
Representative from the Second Judicial District
Representative from the Third Judicial District
Representative from the Fourth Judicial District

FEDERAL AGENCY REPRESENTATIVES (NONVOTING)

U. S. Coast Guard Representative
EPA Representative

1. Review and recommend to the Department of Environmental Conservation research topics for it to pursue.
2. Establish testing protocols to be used by the Department of Environmental Conservation to evaluate the effectiveness of hazardous substance spill technologies for use in the state.
3. Identify sources of money that may be available for discharge-related research.
4. Make proposals to the governor, State Emergency Response Commission, and other entities to encourage and fund prevention, response, cleanup, and mitigation of future discharges of hazardous substances.
5. Compile and maintain information relating to:
 - A. containment and cleanup technology that is available in the event of a hazardous substance discharge, the extent to which current containment and cleanup technology is available and may be applied in the state, and ways to improve hazardous substance spill response technology and procedures;
 - B. steps that should be taken by government and industry to ensure proper management, handling, and transportation of hazardous substances and to improve the statewide ability of industry and governmental agencies to respond to discharges of hazardous substances;
 - C. the extent to which industry practices and governmental practices or laws should be changed to reduce or minimize the potential for hazardous substance discharges; and
 - D. hazardous substances spill technology research conducted by the Department of Environmental Conservation.
6. Perform other functions as may be requested by the State Emergency Response Commission.

The oil and hazardous substance response office (SRO) is to serve as staff support for the council. Two positions within the SRO, an Environmental Specialist IV and an Environmental Specialist III, are to be devoted primarily to council support. Some activities of other SRO staff (such as the compilation of information specified in 5. above) will also be devoted towards some of the duties of the council. An organization chart of the SRO is attached.

CURRENT MEMBERSHIP

Revision Date: 1/3/91

**BOARDS AND COMMISSIONS CONTACT ROSTER
HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW COUNCIL**

MEMBER	APPT	RAPPT	RAPPT	TERM
Randy Bayliss 119 Seward Street, No. 10 Juneau 99801 (H) 364-3259 (W) 586-6813 (Fax) 586-1001 Public/Restricted/ 1st JD	90/10/30	0/00/00	0/00/00	91/09/24
Edward J. Brown Water Research Center-UAF Fairbanks 99757-1760 (H) (W) 474-7350 (Fax) 474-6087 University of Alaska Rep.	90/10/30	0/00/00	0/00/00	91/09/24
Henry Cole OMB/P.O. Box AM Juneau 99811 (H) (W) 465-3568 (Fax) Governor's Senior Science Advisor	90/10/30	0/00/00	0/00/00	0/00/00
Hugh Cox Adjutant Gen/DMVA 800 E. Dimond, Suite 3-450 Anchorage 99515 (H) (W) 249-1565 (Fax) Adjutant General/DMVA	90/12/27	0/00/00	0/00/00	0/00/00
Gordon W. Ito P. O. Box 307 Kotzebue 99752 (H) 442-3680 (W) (Fax) Public/Restricted/2nd JD	90/10/30	0/00/00	0/00/00	92/09/24
John (Randy) R. McGovern 1611 Carr Fairbanks 99701 (H) 451-0124 (W) 456-4248 (Fax) Public/Restricted/4th JD	90/11/15	0/00/00	0/00/00	93/09/24

Peter G. Mickelson 90/10/30 0/00/00 0/00/00 92/09/24
PWS Science Center/Box 705
Cordova 99574
(H) 424-5111
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(Fax)
Prince William Sound Science Center/Cordova/Rep.

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(Fax)
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John Sandor 90/12/03 0/00/00 0/00/00 0/00/00
Commissioner's Office/DEC
P. O. Box 0
Juneau 99811
(H)
(W) 465-2600
(Fax) 465-2617

VACANT 00/00/00 0/00/00 0/00/00 0/00/00

(H)
(W)
(Fax)
Coast Guard Rep./Nonvoting

VACANT 00/00/00 0/00/00 0/00/00 0/00/00

(H)
(W)
(Fax)
EPA Rep./Nonvoting

ADMINISTRATIVE DETAILS

Appointed state members serve overlapping three-year terms. State and federal members serve without compensation but are entitled to per diem and travel expenses for attendance at meetings. The council is directed by HB 566 to meet regularly at the call of the State Emergency Response Commission or the chair of the council. The council members are to elect from among themselves a chair and vice-chair. State members of the council are subject to the Conflict of Interest statute (AS 39.50).

OIL AND HAZARDOUS SUBSTANCE LEGISLATION RELATED TO STRC

In 1986 House Bill 470 was enacted to establish a fund to: (1) contain, clean up, and take other necessary action, such as monitoring, assessing, investigating, and evaluating the release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or the environment; (2) provide matching funds for participation in federal oil discharge clean up activities and under CERCLA; and (3) recover the cost to the state or to a municipality of a containment and clean up resulting from the release or the threatened release of oil or a hazardous substance.

In 1989, the enactment of House Bills 261 and 264 added the following uses for the fund: 1) to investigate and evaluate the release or threatened release of oil or a hazardous substance; 2) to pay all costs incurred to establish and maintain the oil and hazardous substance response office and for the expenses of the oil and hazardous substance response corps and the oil and hazardous substance response depots established by that office; 3) to prepare, review and revise the state's master oil and hazardous substance discharge and prevention contingency plan and a regional master oil and hazardous substance discharge and prevention contingency plan; and 4) restore the environment by addressing the effects of an oil or hazardous substance release.

The Oil Spill Response Office was established as a consequence of House Bill 264 enacted 1989. The duties of the Oil Spill Response Office specified that the office shall be prepared to respond promptly to a discharge of oil or a hazardous substance. Further, the office may enter into agreements with agencies of the state and federal government, political subdivisions, the University of Alaska, or private entities to: 1) establish and maintain regional oil and hazardous substances depots and to acquire the supplies and equipment necessary for response readiness; 2) train members of the response corps; and 3) conduct research into oil and hazardous substances spill technology.

In 1990, House Bills 566 and 567 were enacted and provided for additional uses of the fund: 1) to pay the expenses incurred by the Alaska division of emergency services for the oil and hazardous substance response corps and the oil and hazardous substance response depots when presented with appropriate documentation by the division; 2) to review oil discharge prevention and contingency plans; 3) to conduct training, response exercises, inspections, and tests; and 4) to verify or establish proof of financial responsibility required by AS 46.04.040.

House Bill 566 establishes the Hazardous Substance Spill Technology Review Council along with the Alaska State Emergency Response Commission.

ALASKA STATE EMERGENCY RESPONSE COMMISSION

The Alaska State Emergency Response Commission, which was also established by HB 566, consists of the commissioners of community and regional affairs, environmental conservation, fish and game, health and social services, labor, natural resources, public safety, and transportation and public facilities, or their designees, the adjutant general of the Department of Military and Veterans' Affairs or a designee, and seven public members appointed by the governor. The commission is chaired by the commissioner of environmental conservation or his designee.

The duties of the commission include: 1) designation and revision the boundaries of emergency planning districts; 2) facilitation of the preparation and implementation of emergency plans for hazardous substance response; 3) review and approval or disapproval of emergency plans; 4) establishment and supervision of local planning committees in each district; and 5) establishment of procedures for reviewing and processing requests from the public for information on emergency planning.

According to the Bylaws of the Alaska State Emergency Response Commission (SERC), the SERC may assign functions to the Hazardous Substance Spill Technology Review Council (STRC). Also, at quarterly meetings of the SERC, the STRC shall present briefing reports, recommendations, or other information regarding their activities and findings.

HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW COUNCIL INVESTIGATIONS

HB 566 provides for the STRC to conduct investigations and to hold hearings (Sec. 46.13.130). The STRC has the authority to issue subpoenas, administer oaths, and conduct investigations related to its duties. On a majority vote of the council, subpoenas may be issued and served. The council may compel the attendance of witnesses and take depositions in a manner prescribed by court rule or law.

TESTING PROTOCOLS

HB 566 specifies that the STRC shall establish the initial testing protocols to be used by the Department of Environmental Conservation to evaluate the effectiveness of hazardous substance spill technologies for use in the state by January 1, 1991. Department of Environmental Conservation staff working in the Oil Spill Response Center have prepared a State of Alaska protocol for approving chemical products and technical clean up methods proposed for shoreline clean up of the T/V Exxon Valdez Oil Spill. This protocol is specific to oil spill clean up techniques, but may serve as a model for protocols to be developed for more widespread applications or for other types of spills.

INFORMATION DATABASES

The Spill Response Office (SRO) has initiated efforts to compile and maintain information relating to containment and cleanup technology and equipment that is available in the event of a hazardous substance discharge. SRO staff are located in Fairbanks, Anchorage, Soldotna, and Juneau. An unfilled position exists for Valdez. Staff in each of these locations are developing databases of response equipment and contractors available in the region. Statewide and global database of major response equipment and organizations will also be developed. SRO staff have acquired a response vendor database and computer literature searches of response technologies developed by the Exxon Valdez Oil Spill Response Center. In addition, the SRO will be developing and maintaining a mini-library of reprints of current and recent literature relative to response technologies.

PROTOCOL, GOVERNING CONDUCT OF PWS CONTINGENCY PLAN--STEERING
COMMITTEE

1. MUTUALLY AGREE ON AGENDA AND SCHEDULE
2. MUTUALLY AGREE ON REPORT OF MEETING
3. ALL MEETINGS SHOULD BE OPEN TO ALL PARTIES; ADEC, USCG, RCAC, ALYESKA AND THEIR CONTRACTORS.
4. MUTUAL CONSENT THAT ALL TECHNICAL REPORTS, SUPPORTING ADEC AND ALYESKA CONCLUSIONS OR RECOMMENDATIONS OR POSITIONS, BE SUBJECT TO WORKING GROUP REVIEW AND DISCUSSION BEFORE DECISIONS ARE MADE.
5. ALL PARTIES RECOGNIZE THE WORLD SIGNIFICANCE OF OUR TASK AND THE ENORMOUS DIFFICULTY.
6. ALL PARTIES RECOGNIZE THE PRECARIOUS BALANCE OF FREEDOM THAT CURRENTLY EXISTS AUTHORIZING THIS WORKING GROUP PROCESS.
7. ALYESKA ACKNOWLEDGES THAT THE "WORKING GROUP" PROCESS CAN ONLY INFLUENCE THOSE DECISIONS SO LONG AS SOUND, TECHNICAL AND DEFENSIBLE PROPOSALS ARE BROUGHT TO BEAR ON A PARTICULAR PROBLEM.
8. ALYESKA FREELY ACKNOWLEDGES ADEC RIGHTS AND AUTHORITY TO MAKE THE FINAL DECISIONS, SUBJECT TO NORMAL DUE PROCESS CRITERIA.
9. MUTUALLY AGREE THE TECHNICAL EQUIPMENT, STRATEGY AND PREVENTION ISSUES RESULTING FROM THESE MEETINGS BE FORWARDED TO PERSONS DEVELOPING REGULATIONS FOR HB 567.
10. MUTUALLY AGREE THE OUTSTANDING ISSUES OF DISPERSANTS, OILY WASTE DISPOSAL AND THE RELATIONSHIPS BETWEEN THE PWS PLAN AND THE TANKER OWNERS PLANS ARE SUBJECT TO ABOVE 1 THROUGH 8.

October 10, 1990

To: PWSTSP&RP Steering Committee

The Steering Committee asked the Valdez Marine Operations Committee to consider various outstanding issues as they relate to approval of the Plan. The committee met on October 3, attending was:

Bob Johnston, PWS Tankers Association
Morris Croce, PWS Tankers Association
Bob Bradley, Southwest Alaska Pilots
Steve Provant, ADEC
Dan Lawn, ADEC
Cdr. Ed Thompson, USCG
Captain Bill Killion, ERV Liberty Service
Graham Lascelles, Alyeska
Mark Hutton, Alyeska
Larry Shire, Alyeska
Tim Plummer, Alyeska (Chairman)

The following is a summary of the various points Addressed:

VESSEL TRACKING SYSTEM

The Prince William Sound Tankers Association will address vessel tracking from a technical perspective and advise of their findings.

Cdr. Ed Thompson will provide an update on the U. S. Coast Guard's efforts towards a vessel tracking program.

Most members felt that the Coast Guard should deal with vessel tracking. ADEC feels that industry could do it.

PREVENTION IN THE NARROWS

It's ~~important~~ ^{important} to first look at the adequacy of the existing system ~~before~~ considering changing it. Larry Shier will take the lead on this topic. He will research the availability of simulator data done on loss of power in the Narrows and develop protocols for conducting tests and coordinate the tests. The tests will involve ERV's and tugs assisting tankers experiencing loss of power, both with and without steering.

Consideration must also be given to improving the existing system as well as reviewing if a better system exists, i.e. tractor tugs connected to a tanker.

PREVENTION BASED OPERATING RESTRICTIONS

ADEC acknowledged that the escort vessels have the ability to tow a disabled tanker, but are concerned in the ability to get connected in bad weather. Larry Shier will develop a protocol for doing an exercise addressing this concern. It may not be necessary to actually make a connection, but simply to ensure that escort vessels are able to maneuver in close enough to make a connection and be a safe working platform for men on deck.

At times it may be desirable for a tanker to have escort vessels go ahead to check for ice. To be effective, this may entail the escort vessel to be more than a half mile from the tanker. Approval to exceed the half mile requirement under these circumstances is requested.

Uniformity on the tankers for rapid deployment of the Prince William Sound emergency towing gear will be discussed by the Tanker Association.

A simple improvement would be for each tanker to have a length of chaffing chain readily available on the bow, connected to the tankers towing bracket, long enough to lead through the bow chock. This would enable an escort vessel to use it's towing gear without concern for chaffing at the bow chock. The Tanker Association will discuss this as well.

COOPERATION OF ALL PARTIES

A program for an "Escort Conference" is being initiated. It will take place on the tanker prior to departure and involve the tanker Master, Pilot, and escort vessel Masters. The intent is to establish the escort plan for the transit and will include, speeds, positioning of the escort vessels, desired communications and radio frequencies, and expected weather conditions; wind, visibility and ice.

PREVENTION CREDITS

Credits should be considered for:

- Double hull tankers
- Double bottom tankers
- Tankers with bow thrusters
- Weather related operating restrictions

VESSEL INSPECTIONS

The Coast Guard is and should remain responsible for conformity to appropriate Federal regulations. ADEC should ensure that state requirements are met and Alyeska needs to ensure that Marine Terminal requirements are met.

SULLOM VOE COMPARISONS

It's important that members better understand what Sullom Voe does, how they do it, and what they do it with. This should be accomplished by Ed Murphy, Ed Thompson, Steve Provant, Larry Shine, Tim Plummer, and a member of the Tankers Association visiting Sullom Voe. Morris Croce was unsure if a representative of the Tankers Association should be included.

STATUS OF THIS COMMITTEE

It's important to establish the importance and credibility of the committee and recommend that this committee be established to meet the requirements of HR 1465 for the Oil Terminal Facilities and Oil Tanker Operations Association.

NEXT MEETING

Valdez Marine Operations Committee: October 26, 0800 at the Terminal Administration Training Room.

PWS Tankers Association: October 30 in Houston.

T. F. Plummer

T. F. Plummer
Chairman

cc: M. F. G. Williams
V. E. Collins
Committee Members

INITIAL RESPONSE AND TRAINING
WORKING GROUP
STATUS REPORT
OCTOBER 11, 1990

PURPOSE

This working group will evaluate response equipment and responders performance in relation to expected performance. The object is to identify "weak links" in response capability, to obtaining realistic data for the various parameters used in evaluating equipment efficiency and to verify our assumptions where ever possible by conducting tests or drills.

MEMBERSHIP

Dan Lawn and Steve Provant with ADEC and Graham Lascelles with Alyeska have been the primary participants on this working group. Representation from RACA and the Coast Guard would also provide valuable input.

PROBLEM DEFINITION

Our problem is to obtain the best information and data available for the various parameters that factor into making performance determinations and capabilities. In some cases it may be necessary to conduct tests or run experiments to obtain the required data.

STATUS

We have agreed on a list of critical factors affecting initial response performance. The list is attached. We need to research these parameters in order to obtain values that we agree are applicable to our situation. Our evaluation will focus on determining the operating limits for each piece of response equipment. We have started by contacting other organisations to find and evaluate the values utilized in other parts of the world. Where values don't apply to our situation we will establish a method to get the necessary data. Where we can accomplish it, data will be verified by performance testing. We are expecting to have data to evaluate a number of performance factors as a result of the October 12 night-time drill.

Exercises we would like to pursue to answer specific questions are:

- Use of the Alyeska impoundment basins to conduct tests of skimmers
- Use a ballasted tank on board a tanker to obtain emulsification data by releasing ANS crude into the tank at depth
- Conduct a test of a barge in the 70,000 bbl range

in rough seas to determine its suitability as a working/skimming platform

- Look into the use of lights on helicopters to improve night-time response operations

FACTORS AFFECTING PERFORMANCE

I. Environmental Conditions

A further complication to the consideration of environmental factors is the way in which many of the parameters change, both within short geographical distances and within short periods of time.

Most of the environmental conditions affecting the performance of equipment are those existing at the precise time and location under consideration. These include:

- A. **WIND:**
 - Speed:
 - Direction:
- B. **WAVES:**
 - Height:
 - Period:
 - Steepness:
- C. **SWELL:**
 - Height:
 - Period:
- D. **CURRENT:**
 - Direction:
 - Speed:
- E. **VISIBILITY:**
 - Surface:
 - 500 ft.:
 - 1,000 ft.:
 - 2,000 ft.:
- F. **PRECIPITATION:**
- G. **TEMPERATURE:**
 - Air:
 - Sea:
 - Windchill:
- H. **ICE CONDITIONS:**
 - Ice bergs:
 - Ice on port surface:
- I. **ICING:**
 - Boats:
 - Aircraft:
- J. **DAYLIGHT HOURS:**

II. Equipment Performance parameters include:

- A. TIME TO DEPLOY:**
- B. RELIABILITY:**
- C. RECOVERY RATES:**
- D. FREE WATER PERCENTAGE:**
- E. OIL POOLING DEPTHS:**
- F. BOOMS:**
 - Holding capacity:
 - Leakage rate:
- G. MAXIMUM SURVIVABLE CONDITIONS:**
- H. MAXIMUM OPERATING CONDITIONS:**
- I. EASE OF MANEUVERING:**

III. Improvements on equipment use:

- A. MAINTENANCE:**
- B. METHOD OF DEPLOYMENT:**
- C. ADAPTATION OF EXISTING EQUIPMENT:**
- D. DESIGN OF NEW EQUIPMENT:**
- E. SURVIVABILITY OF EQUIPMENT:**
- F. SPARES:**

IV. Tactics:

- A. MANEUVERING OF VESSELS:**
- B. BOOM CONFIGURATIONS:**
- C. OPERATING IN LEE OF BARGES:**

V. Nighttime Operation:

- A. CRAB LIGHTS:
Vessels:
Aircraft:
- B. IR:
- C. NIGHT VISION:
- D. RADAR TRACKING:

VI. Oil weathering characteristics:

- A. EMULSIFICATION:
T/V Test:
- B. EVAPORATION:
Impound basin test:
- C. VISCOSITY:
Impound basin test:

VII. Skinner efficiency factors:

VIII. Possible Disposition of Barges and equipment complement by (GL).

1 ea 120,000 barge at Hinchbrook. Skimming capacity. Nameplate. 6-8,000 bbl/hr. 2-5,000 feet boom.

1 ea 70,000 barge at Naked Island. Skimming capacity. Nameplate. 6-8,000 bbl/hr. 2-5,000 feet boom.

1 ea 120,000 barge at Naked Island. Lightering and additional storage or skimming capacity. Suggest fitting barge with large capacity crane to allow equipment to be moved from vessel to vessel within the Sound.

2 ea 70,000 barges at Valdez. Ea Skimming capacity. Nameplate. 6-8,000 bbl/hr. 2-5,000 feet boom.

Maximum TIME to be operation in 80% of cases:

1st	barge:	4 HOURS.	
2nd	barge:	6 HOURS.	
3-4th	barge:	9 HOURS.	
WKV		12 HOURS.	(WKV to discharge to any barge)

MEMORANDUM

DATE: September 13, 1990

TO: ADHC-ALYESKA-USCG-RCAC WORKING GROUP

FROM: Tim Robertson, RCAC

RE: Goals & Objectives for Near Shore Protection and Skimming & On Shore Clean-up Sub-Group

Greetings! I'm sorry that I can not be at your meeting today. Sheila has ask me to give some thought to the goals and objectives of a sub-group to deal with issues related to Shoreline Clean-up. I brought up the issue of RCAC chairing a sub-group at the RCAC meeting on Tuesday this week. The issue was not formally moved, but there did not seem to be any objection. I feel that the idea is workable as long as our role is well defined and does not require a time commitment beyond our abilities.

SCOPE

I feel that this sub-group should deal with all issues in the PNSTOSPR Plan related to Near Shore Protection and Skimming & Shoreline Clean-up both within PWS and along the entire coast affected by the Exxon Valdez spill. Some issues which would fall under the jurisdiction of this sub-group are:

- Shoreline Environmental Sensitivity Surveys
- Hatchery Protection Program
- Community Protection Program
- Near Shore Response
- Sacrificial Beaches
- Shoreline Cleanup Planning
- Shoreline Cleanup Techniques
- Shoreline Cleanup Monitoring

OBJECTIVES

The objectives of this sub-group would be to examine issues of the C-Plan which are within the scope of the sub-group and strive to reach a consensus of opinion on the best method to deal with the issue and provide a recommendation to ADHC on an action to take. If a consensus can not be reached then a majority recommendation and minority recommendation should be issued.

GOALS

The Goals of the sub-group should to be:

- 1) Identify specific issues to be looked into and treat each issue as a project.
- 2) Prioritize the projects based on importance to the overall Plan.
- 3) Schedule work on each project with deadlines for a recommendation to ADEC.
- 4) Review existing body of knowledge on each topic.
- 5) Take into account all view points on each issue.
- 6) Issue through written reports using a standardized format and ending with recommendations.

PARTICIPATION

Representation should be included from the RCAC, USCG, EPA, ADEC, ALYTESKA, PWS SHIPPERS, and ADP&G at a minimum.

FUNDING

I'd suggest dutch treat.

TIME LINE

The sooner we can get started the better. However I don't believe that we should begin until the ground rules are clearly established in writing and agreed to by all parties. We should expect this process to be on going for a long time. Don't expect overnight results on any issue.

TECHNICAL WORKING GROUP

DISPERSANTS, IN-SITU BURNING AND BIOREMEDIATION OCTOBER 9TH, 1990 ALYESKA CONFERENCE ROOM

The DISPERSANTS, IN-SITU BURNING, AND BIOREMEDIATION WORKING GROUP (DBB Group) met for the first time at the Alyeska offices on October 9th, from 1300 to 1500 hours. Present were Steve Provent from ADEC; Carl Lautenberger from EPA; Sharla Bickley from BP Exploration; Judith Brendel from ARCO; Rob Dragnich from Exxon; Glenn Akins from America North, Inc.; and Sharon Hillman and Mark Hutton from Alyeska. Absent were RCAC and USCG.

MEMBERSHIP

Those present, plus those noted as absent, were agreed to be members of the Technical Working Group (TWG). In addition, specialists will be called in from time-to-time as agreed by the group.

PROBLEM DEFINITION

The purpose for this meeting was to respond to a request by the PWS Plan Steering Committee to evaluate the issues of dispersant use, in-situ burning, and bioremediation, and to provide the Steering Committee with recommendations to answer the ADEC concern stated in the Department's written comments on the PWS Plan.

This first meeting was conducted as an organizational meeting. A problem definition statement with several points was discussed and agreed-upon by participants. This list, which follows below, may be revised during further meetings of the TWG.

1. The DBB Group will review and evaluate the PWS Plan strategy, equipment, personnel and training components for dispersants use, and make recommendations to the Steering Committee to maximize this tool.
2. The DBB Group will read and evaluate the PWS Plan and make recommendations to the Steering Committee on the following objectives:
 - o Review conflicts inherent in on-scene approval vs. RRT approval process;
 - o Review application techniques and strategies
 - vessel application
 - aircraft application
 - staging
 - response times;
 - o Review specific dispersant types and quantities;
 - o Stock pile maintenance and inventory rotation.

3. The DBB Group will review and evaluate the PWS Plan strategy, equipment, personnel and training components for in-situ burning, and make recommendations to the Steering Committee to maximize this tool.
4. The DBB Group will review and evaluate the PWS Plan strategy, equipment, personnel and make recommendations to the Steering Committee on the applicability of open-water bioremediation to PWS response planning.

SCHEDULE

The next meeting is tentatively scheduled for November 1st, 1300 to 1600 hours. The purpose of that meeting will be to:

1. Agree to the written objective statement from the organizational meeting (Oct. 9th);
2. Review and provide final agreement on the problem statements;
3. Establish steps to address problems identified and agreed to by the DBB Group members;
4. Establish a schedule and resources needed; and
5. Review information from the PWS Plan as needed.

Submitted by:

Mark I. Hutton, Alyeska

Steve Provent, ADEC

TECHNICAL WORKING GROUP

OILY WASTE DISPOSAL
OCTOBER 9TH, 1990
ALYESKA CONFERENCE ROOM

The OILY WASTE DISPOSAL, TECHNICAL WORKING GROUP met for the first time at Alyeska on October 9th, from 0900 to 1100 hours. Present were Ron Godden and George Wilson from ADEC; Judith Brendal from ARCO Transportation; Sharla Bickley from BP Exploration; Glenn Akins from American North, Inc; and Sharon Hillman and Mark Hutton from Alyeska. Absent were RCAC, EPA and USCG.

MEMBERSHIP

Those present, plus those noted as absent were agreed to be members of the technical working group. In addition, specialists will be called in from time-to-time as agreed by the group.

PROBLEM DEFINITION

The purpose for the meeting was to respond to a request by the PWS Plan Steering Committee to take a look at the issue of oily waste disposal and to bring to the Steering Committee a recommendation to answer ADEC concerns to resolve the issue. The meeting was an organizational meeting; although a six point "Problem Definition" list was agreed by all. This list follows and may be refined at the next meeting.

1. Define "disposal" (including storage) and Waste Profiles.
2. Exclude "in-situ" burning when used as an initial response tool.
3. Define permit options.
 - a. pre-permitting as far as practicable
 - b. specific permits where possible
 - c. pre-approved "SOPs" or "Plan Approvals"
 - d. general permits
 - e. are there requirements for Hazardous Waste permitting

4. How does TC apply to Waste disposal?
 - a. where does it become a waste?
 - b. are EPA ID numbers required? Agency Number?
5. Can we pre-characterize wastes by testing?
6. Review and define waste disposal options
 - a. liquid
 - b. solid

SCHEDULE

The next meeting is tentatively scheduled for October 25th for 2:00 pm at Alyeska. The purpose is to:

1. Agree to written objective statement from the Steering Committee.
2. Review and provide final agreement on the problem statements.
3. Establish Steps to address problems identified and agreed too.
4. Establish schedule and resources.
5. Review information from PWS Plan (in notebooks) in light of agenda items 2 and 3.

submitted by:

Mark I. ~~W~~ston, ALYESKA

George Wilson, ADEC

**PWS CONTINGENCY PLAN
STEERING COMMITTEE MEETING
November 29, 1990
Alyeska Marine Terminal, VALDEZ**

The Prince William Sound Contingency Plan Steering Committee held its 11th meeting in Valdez on November 29, 1990 from 0900 through 1145 hours. In attendance at the meeting were:

Steve Provant, Chairman	ADEC
Nick Mitchell, Mark Hutton, Tim Plummer,	
Rob Shoaf and Kate Montgomery	Alyeska
Tim Robertson*, Stan Stanley and Joe Banta*	RCAC
CDR Ed Thompson, CDR Ed Wielickiewicz	Coast Guard
Bill Robinson and Roger Van Duzer	Shell
Tom Mullen*	BP Alaska
Myron Fedak	Exxon Shipping
Don Walker	TESORO
Ron Holton*	Chevron
Chris Swenson*	ADF&G

*In Anchorage via Alyeska's video conferencing facility

GENERAL DISCUSSION

The Steering Committee agreed to limit the agenda due to the weather and discussions were restricted to: ADEC approval letter condition # 6 (transition management); how PWS c-plan development was to be coordinated with the implementation of HB 567; schedules, due dates and end products per the ADEC conditional approval letter; shoreline cleanup working group; vessel c-plan certification prior to T/V loading; and working group reports.

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adjudicatory hearing process if possible. Therefore, because of the short time remaining Alyeska agreed to propose a letter to ADEC for joint signature (ADEC and Alyeska) with wording similar to that in Attachment I. Tim Robertson (RCAC) did express concerns about the previous position taken by Alyeska that management transition could not occur without ADEC approval.

Revision of the PWS Tanker Spill Prevention and Response Plan was discussed regarding ADEC conditional approval letter condition # 4. Alyeska and the tanker owners need a better definition as to what will be required to satisfy this condition. Since the regulatory requirements of HB 567 may not be fully available in time to consider for a May 1, 1991 due date, the ability to make a meaningful revision of the plan was questioned. Alyeska expressed concern about revising the plan to meet the May 1 date and then having to revise it again to meet HB 567 requirements. It was agreed that ADEC would provide a description as to what was wanted in the way of a May 1 revision at the meeting of the Plans Coordination Working Group scheduled for December 13. Alyeska also stated that for them to make meaningful revisions to the plan they needed comments from ADEC on the plan submitted December 31, 1989.

The importance of scheduling and the timing for meeting the requirements of HB 567 was discussed. It was pointed out that three events must be dealt with: the provisions of HB 567 that required compliance on June 1, 1990; the provisions that must be met June 1, 1991 (regulation development not required); and provisions that must be met June 1, 1991 requiring regulations that may or may not be promulgated by that date. Alyeska stated they would go through the plan and prepare an outline/checklist of changes they recognize which need to be made to the plan.

It was agreed that the Contingency Plan Coordination Technical Working Group would be the appropriate place to consider these matters. It was also agreed that we should have legal advice in dealing with these issues and to provide some guidance in what course of action to expect if HB 567 regulations are not promulgated in time for compliance to be achieved by June 1, 1991. It was agreed that both ADEC and Alyeska would invite attorneys to the next meeting. The next meeting of this group was scheduled for December 13, in Anchorage following the Exxon spill drill.

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on the terminal to determine whether or not an up-to-date c-plan is on board. As changes are made to the plans it will require that terminal personnel go through the plan page by page to determine if the plan is current.

The next Steering Committee meeting will be scheduled for mid January.

TECHNICAL WORKING GROUP REPORTS

The reports for all the technical working groups are attached.

Shoreline/Near Shoreline Cleanup

This working group is planning its first meeting for Monday December 10, 1990 and would like for Steering Committee members to select and notify the working group chairmen (Tim Robertson or Joe Banta at RCAC) who will be participating.

Navigation/Prevention

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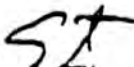
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Submitted by:


Mark Hutton, Alyeska


Steve

_____, ADEC

~~Dec~~ Nov 29 PWS C-Plan Staring
Committee Meeting

Steve Provant	ADEC	835 4695
Mark Hutton	ALYESKA	265-8879
Stan Stanley	RCAC	835 277-72
Larry Shies	ALYESKA	835-6902
Rob Shroy	"	265-8565
ED WIEDCZKIEWICZ	USCG	835-4792
Kate Montgomery	ALYESKA	265-8727
DON WALKER	TESORO	835-4207
Bill Paterson	ALYESKA	713-641-2372
NICK MITCHELL	ALYESKA	265-8875
MYRON E. FEDAK	EXXON SHIPPING	713-656-9944
Tom Robertson	RCAC	
Tom Hall Mullins	ALYESKA B.P.	
Joe Banta	RCAC	
Roger Van Duzer	Shell Oil	
Ken Halten	Chevron	
Chris Siverson	ADFG	

11-29-90

Steering C Meeting

Anchorage

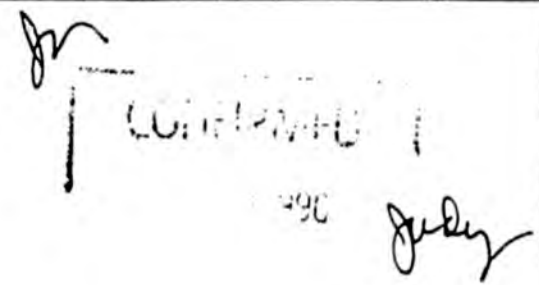
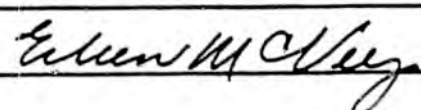
Tim Robertson RPAC 277-7222

Joe Banta " "

CHARLIE LAMBERT CHEVRON (415) 894-5265

CHRIS SWENSON IOF&G 267-2324

TOM MULLEN BP 216-586-4187

☐ MPS ☐ Telex (090) 25-127 TRANSPipe AHG ☒ FAX (907) 265-8611 or 265-8614 or (907) 278-9015 Confirm: (907) 265-8610 or 265-8612 Address: 1835 South Bragaw Street, Anchorage, Alaska 99512		Originator E. McVey		Department OSCP	
		Date 12/19/90		Time 4 pm	
		Send Number 835-2429		Page 1 of 9	
				Confirm Number 835-4698	
To (Company, City & State or MPS Address Codes) ADEC Valdez AK					
Attention: Steve Provant			From Mark Hutton		
Subject:			Reference		
Message (Type or Print) see attached					
					
Copy To:					
Signed/Originator: 		Typed By E. McVey		Extension: 265-8413	
Return Verification Copy To:				Mail Station: 578	

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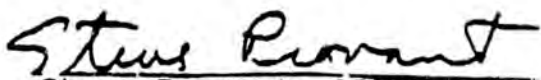
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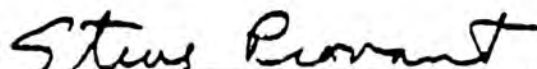
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Submitted by:


Mark Hutton, Alyeska


Steve Provant, ADEC

MEMORANDUM

Regional Citizens' Advisory Council
Oil Spill Prevention and Response Committee

TO: Shoreline Protection and Beach Cleanup Working Group
FROM: Joe Banta
RE: DRAFT Meeting Notes for the SPBC Group 12/10
DATE: JAN 11/91

These are draft meeting notes which have yet to be approved by Linda Hyce of RCAC. Since she is out of state I am passing along draft copies to ensure all working group members have ample time to review notes prior to the next meeting 1/23/91 at 9:00AM.

Post-It™ brand fax transmittal memo 7671		# of pages = 4
XXXXXXXXXXXX		From J Banta
Co. Alaska		Co. RCAC
Dept.		Phone #
Fax #		Fax #

**DRAFT Meeting Notes
PWS Tanker Spill Prevention and Response Plan
Steering Committee**

**Nearshore Protection and Beach Cleanup
Technical Working Group
Meeting
December 10, 1990
RCAC Conference Room**

The Nearshore Protection and Beach Cleanup Technical Working Group met for its formative meeting at the RCAC conference room from 9:00 AM to 11:00 AM. Lynda Hyce and Joe Banta attended for RCAC, Charla Bickley attended for BP Pipelines, Phil Larsen Jr. attended for VECO, Kevin O'Shea attended for ADEC, and Chris Swenson attended for ADF&G.

Participation and Membership:

Members present discussed the addition of other groups pertinent to the working group process for nearshore protection and beach cleanup and concluded there were several other people they would like to invite to participate in the group. Members specifically requested Andy Teal from Exxon, and Carl Lautenburger from EPA. Other groups to be contacted and invited to following meetings are the USCG, ADNR, and additional oil companies.

Additional Groups were identified for attendance on an invitational basis based upon the meeting agenda. These groups are Prince William Sound Aquaculture Corporation, Cook Inlet Spill Prevention and Response Corporation, and Alaska Clean Seas.

Scope, Goals, and Objectives:

The group discussed the scope, goals, and objectives as outlined in the goals and objectives developed by RCAC and submitted to the Steering Committee September 11, 1990. They agreed that the issues of concern as developed in the scope were appropriate. Members prioritized the issues according to importance to the C-Plan as follows:

- Shoreline Resource Sensitivity Surveys
- Beach Prioritization Program
- Hatchery Protection Program

- Nearshore Response (utilizing local fishing vessels)
- Community Protection Programs
- Shoreline Cleanup Planning
- Shoreline Cleanup Techniques
- Shoreline Cleanup Monitoring
- Equipment Analysis (to ensure adequate coverage of the shoreline)

Members included equipment analysis as an additional issue to ensure that enough equipment (especially protective boom) will be available after planning is complete. They realized that this function might best be covered by the Initial Response and Training Working Group, but that with one group or the other, the analysis should be completed. Members adjusted the name of the Shoreline Resource Sensitivity Survey by replacing "Environmental" with "Resource" to more accurately reflect the diversity of resource priorities which range from biological, cultural and recreational sensitivity. The group also clarified that address of these issues should be an ongoing process to ensure that new information and technology will be incorporated into these programs. They further agreed that updates from programs such as Ingrid's and Eldon's would be important and that update reports should be provided for each NSP & SC Working Group meeting.

Members set specific objectives for the next meeting which included having presentations from Ingrid Gapaille with Alyeska's Shoreline Sensitivity Program, and Eldon Johnson who set up Alyeska's Hatchery Protection Program. Those presentations will provide detailed background information for addressing the first two or three priority issues listed above.

The group discussed the area of jurisdiction for protection and cleanup and agreed that PWS and the entire coastline should be the area considered, with PWS being the priority area for analysis at this time. After further discussion the group agreed to request the Steering Committee clarify the detail of equipment and planning for address of areas outside of PWS.

Scheduling:

The next meeting was set for January 23, 1990 at 9:00 AM, and the agenda will include presentations on both the Shoreline Sensitivity Program and the Hatchery Protection Program if Ingrid and Eldon are available. If time

permits, members will also brainstorm on methods of incorporating state or local response teams into the nearshore response programs.

Lynda Hyce, RCAC

Kevin O'Shea, DEC

13

14

15

Alyeska pipeline

SERVICE COMPANY

1836 SOUTH BRAGAW STREET, ANCHORAGE, ALASKA 99512. TELEPHONE (907) 278-1611. TELEX 290251Z

November 16, 1990

Letter No. 90-7975-G

Bill Lamoreaux, Regional Supervisor
Alaska Department of Environmental Conservation
3601 "C" Street, Suite 1334
Anchorage, Alaska 99503

Re: Condition 6 - Conditional Approval of Vessel
Contingency Plans

Dear Mr. Lamoreaux:

Since delivery of Alyeska Pipeline Service Company's ("Alyeska") letter to the Alaska Department of Environmental Conservation ("DEC") on November 13, 1990, Alyeska, some vessel owners and operators and DEC personnel have had numerous discussions about the DEC's requirement that transition of oil spill response from Alyeska to a long term responder be approved in advance by the DEC. (See Condition 6 in the DEC's Tanker Contingency Plan Approval letter.) We appreciate your willingness to discuss this issue, and understand there are issues still to be discussed.

At this point, Alyeska is confronted with the choice of continuing discussions with the DEC or, as stated in the conditional approval letter, initiating, as an affected party, an administrative appeal. We believe the contingency plan holders have to make the same choice. Because we have previously agreed with the DEC that the Steering Committee should be utilized to identify and review issues that arise out of plan review and approval and because it was identified on 6/25/90 and 7/12/90 as an action item for the Steering Committee, but has not been discussed, we believe the best course at this time is to try to resolve the transition approval issue at the November 29, 1990 meeting. If we do not reach agreement with the Steering Committee to make a recommendation to the DEC on the 29th, Alyeska will initiate an administrative appeal to preserve its rights. We will, however, continue to discuss the issue through the Steering Committee.

As written, Condition 6 potentially places the legal burden of long term response and clean up on Alyeska in the event the spiller, which has that responsibility under state and federal law, is unable or unwilling to implement its approved contingency plan. Alyeska's agreement with the contracting vessels, and true capability, is only for initial response. We don't have the resources to provide a second tier clean up in the event a spiller fails to fulfill

its responsibilities. State and federal oil spill response funds and contingency plans are in place to provide that level of protection.

In the Response Agreement, if a contracting vessel fails to assume management of an oil spill response within 72 hours after request by Alyeska, Alyeska may formally tender management of the spill to the United States Coast Guard. As a result, Alyeska, the Coast Guard and the DEC must establish a process that would lead, without disruption of the actual response, to federalization of a spill. If a spiller fails to take over management of a spill response, we believe it is in the best interests of the State to work cooperatively with all involved to achieve a federal takeover of the response that will access the one billion dollar response fund created by the Oil Pollution Act of 1990.

The second concern with Condition 6 is what criteria should be applied to approve management transition when a contracting vessel is attempting to meet its contractual obligations to Alyeska and legal obligations to the federal and state governments. If the DEC adopts reasonable standards that must be met, then Alyeska and the contracting vessel know what objectives must be met and can work in advance to develop a capability to meet them. Standards would provide Coast Guard and DEC officials with a basis to first understand and then evaluate management transition as it occurs and provide constructive guidance to assist successful completion of the transition. After all, it is the goal of the unified command under the Incident Command System to work cooperatively to achieve maximum clean up results from oil spill response efforts. Finally, agreed-upon standards will assure Alyeska and contracting vessels that transition approval will not be withheld unreasonably during the physically and emotionally trying days immediately after a spill.

We hope that the DEC, Coast Guard, Alyeska and vessels agree to a common goal: transition of management from the initial response action contractor to the long term responder in a manner that is efficient and predictable and enhances the response effort. If we agree on this goal, it is imperative that we develop mutually acceptable standards that assist successful, cooperative achievement of the goal. These standards can be developed through the Steering Committee to meet the needs of all parties and should be based upon the experiences of transition drills held this year.

Letter No. 90-7975-G
November 16, 1990
Page 3

We look forward to discussing this issue at the next Steering Committee meeting on November 29, 1990.

Sincerely,



N. Mitchell
Contingency Planning Manager

smk

cc: U.S. Coast Guard
Vessel Contingency Plan Holders
PWS Contingency Plan Steering Committee
RCAC
R.I. Shoaf

Alyeska pipeline

SERVICE COMPANY

1836 SOUTH BRAGAW STREET ANCHORAGE, ALASKA 99512 TELEPHONE (907) 278-1811 TELEX 390-25-12

November 15, 1990

Letter No. 90-7973-G

Bill Lamoreaux, Regional Supervisor
Alaska Department of Environmental Conservation
3601 "C" Street, Suite 1334
Anchorage, Alaska 99503

Re: Oil Spill Response Services Agreement

Dear Mr. Lamoreaux:

The following companies, as "Contracting Vessels," have entered into Oil Spill Response Services Agreements for the terms indicated, covering the same vessels previously identified to the Department of Environmental Conservation:

<u>Contracting Vessel</u>	<u>Term</u>
ARCO Marine	11/16/90 - 12/31/92
BP America & The Standard Oil Co.	11/16/90 - 12/31/92
Chevron USA, Inc.	11/16/90 - 12/31/92
Exxon Shipping Co.	11/16/90 - 12/31/92
Shell Oil	11/16/90 - 12/31/92
Tesoro Alaska Petroleum Co.	11/1/90 - 12/7/90

For those Agreements expiring on December 31, 1992, the term will renew annually thereafter, unless the parties elect to terminate the contract as provided for in the Agreement.

We are continuing to work with Tesoro to evaluate its compliance with the financial responsibility standards in the Agreement. We will keep the Department advised of that status.

Sincerely,



Robert I. Shoaf
Assistant General Counsel

smk

cc: TAPS Legal Subcommittee
APSC Management
T.F. Plummer

Alyeska pipeline

SERVICE COMPANY

1835 SOUTH BRAGAW STREET ANCHORAGE ALASKA 99512 TELEPHONE (907) 278-1811 TELEX 790251

November 13, 1990

Letter No. 90-7964-G

Bill Lamoreaux, Regional Supervisor
Alaska Department of Environmental Conservation
3601 "C" Street, Suite 1334
Anchorage, Alaska 99503

Dear Mr. Lamoreaux:

RE: November 1st and 2nd Conditional Approval Letters to
Vessel Contingency Plan Holders in the TAPS Trade

Alyeska Pipeline Service Company (Alyeska), as initial oil spill responder through the Prince William Sound Tanker Spill Prevention and Response Plan, offers this letter in response to a number of the "conditions" described in the contingency plan approval letters from the Department of Environmental Conservation ("DEC") to tankers in the TAPS Trade. It is likely that those contingency plan holders will also communicate directly with the DEC.

Overall the letter is a good reflection of the agreement that has been achieved through the Steering Committee and the technical working groups. The spirit of the letter--to foster a strong working relationship between all parties to resolve very difficult issues--is one we support, appreciate and will continue to work hard to accomplish.

Our response, which is attached, seeks clarification of some issues, comments specifically and generally on others and requests, on behalf of Alyeska, Department modification of Conditions 1 and 6. Like Alyeska, many of the tanker contingency plan holders are concerned about Condition 6. Since the subject matter is so important, we ask for written confirmation of your response to our letter, especially on the request to modify condition 6, as soon as possible, but no later than November 14th, 1990. Alyeska will communicate that response to the tanker contingency plan holders.

Please be assured we wish to continue the working relationship that has been established through the Steering Committee; a process that we believe has contributed substantially to the development of the best possible contingency plan and planning process.

Sincerely,



N. Mitchell
Contingency Planning Manager

cc: J. B. Hermiller
Vessel Contingency Plan Holders
M.F.G. Williams
A. T. Smith
R. Shoaf
PWS Contingency Plan Steering Committee

ALYESKA PIPELINE SERVICE COMPANY COMMENTS ON THE NOVEMBER
1ST AND 2ND, 1990 ALASKA DEPARTMENT OF ENVIRONMENTAL
CONSERVATION CONDITIONAL APPROVAL LETTERS TO VESSEL
CONTINGENCY PLAN HOLDERS IN THE TAPS TRADE

PAGE ONE

Paragraph two: General Comment and Clarification

The current requirements of AS 46.04, which require planholders to determine the size of the "most likely spill" and then describe how to clean it up in 48 hours, have not been resolved between Alyeska and ADEC during the review of the PWS Tanker Spill Prevention and Response Plan. However, through the Steering Committee deliberations and with the passage of HB 567, it became a moot point, as a new planning standard established the spill size and became our mutual planning standard target. We therefore believe the "base-level plan" is a good strategy that represents our first, collective recognition of the new planning standard in HB 567; but it is not strictly to meet the current requirements of AS 46.04.

PAGE TWO

Paragraphs one and two: General Comment and Clarification

These two paragraphs are related. Paragraph one, however, in the reference to "no more than 12 hours after the release" should also acknowledge the "weather conditions permitting" language in paragraph two.

PAGE THREE

Conditional Plan Approval: General Comment and Clarification

As the new requirements of AS 46.04 proceed through rulemaking, on their way to new regulations on June 1, 1991, Alyeska and the vessel contingency plan holders will continue to hold the Steering Committee process as the most effective forum to mutually resolve the difficult issues. It is in that spirit that we envisage your requirement for "additional data and performance evaluation" as a significant Steering Committee project.

Conditions Upon Which Plan Approval Granted

1. There is no date in the letter for submission of "target goals and implementation schedules to resolve the issues identified below" (a. through g.). We interpret that

to mean, we will all continue to work in good faith with this request, through the Steering Committee and technical working groups, to achieve the target date for recommendations to the Steering Committee by March 1, 1991. The remaining dates present somewhat of a dilemma. If we deliver a revised plan to you on May 1st, 1991, conceivably we will have to submit another revised plan shortly after the full implementation of HB 567 on June 1st, 1991. We therefore, request the next plan submittal to be either June 1, 1991 or 60 days after final regulations have been implemented for HB 567, whichever is later.

The full implementation of HB 567, with its basis of planning standards, spill size scenarios and prevention incentives is an important part of the plan and will require a rewrite of the plan.

1.a. Response

We interpret this condition to mean that 25,000 barrels per hour, nameplate skimming capacity is the total required to meet the base-level plan prescribed in your letter, therefore the word "additional" should be deleted.

PAGE FOUR

1.c. Response

We believe the development of this "response strategy" will be best achieved through the technical working group and agree "this aspect of the initial response is critical". We will continue to pursue these HB 567 planning standards goals, utilizing the processes set up under the Steering Committee.

As a general comment, we have always felt that "best available technology" has not been defined, but will be adequately covered by the Steering Committee. It makes the most sense to focus on best available strategy, utilizing a collection of resources that are available in other comparable parts of the world.

1.d. Response

Alyeska will continue to pursue the development of high capacity/large volume skimmers and platforms. Arco Marine has recently announced that it has dropped plans to design and build a combined tanker/skimmer ("Big Gulp"). Alyeska is not independently pursuing that concept.

From what we have learned through the Steering Committee process, we accept the need to look beyond conventional skimmers and concentrate on the development of new, non-conventional skimmers and ideas. To that end, and in fulfillment of this condition, the two projects we have started (lightering pumps and the manometric pump) will be pursued until an answer is apparent. These projects seem to hold real promise and will be fully explored, in cooperation with the technical working groups. If this does not prove satisfactory, other areas will be explored.

1.g. Response

This straight forward request is a complicated, long term project. It involves a 20 million dollar Hatchery Protection Program and Community Response Center Protection Program that includes about 100,000 feet of boom stockpiled around PWS; all of which will be fully implemented late next spring, by June 1, 1991. The vast majority is on site now, with the remaining anchors and chain work scheduled for next spring. The site identification project started this summer. Site nomination, identification, onsite visits, evaluations and documentation of needed resources and a strategy will continue well through next summer and probably longer. We will not be able to provide the Department with any additional "plan" until all of our background work is completed. In the interim we will continue to respond to

requests you may have about the status of the project and share progress reports with you.

Condition 4; General Comment and Clarification

In order to meet this condition, the schedules for reports to the Steering Committee and ensuing recommendations to the Department must be properly organized. We will work with the Steering Committee and the Department to accomplish this. As stated previously, we request adequate time (60 days) after the new regulations to submit a revised plan.

PAGE FIVE

Condition 6; exception taken.

We believe this issue can be resolved by the Steering Committee with Alyeska and tanker contingency plan holder participation. Alyeska is specifically concerned with: (1) the schedule imposed by the conditional approval, (2) the approach and (3) the exclusion of a large number of TAPS vessels.

The Department has not offered any guidelines or criteria to evaluate a decision to approve the handover of the management of a spill from Alyeska to the spiller.

The spiller is responsible and liable under all law for the spill. Alyeska as a response action contractor for the spiller will initiate that response as described in the PWS Tanker Spill Prevention and Response Plan. By an Oil Spill Response Services Agreement, each vessel with an approved contingency plan will utilize Alyeska as an independent contractor to respond as required by the Tanker Spill Prevention and Response Plan. Nonetheless, Alyeska has only a contractual relationship with the spiller who must be on scene as soon as possible, with a claims office set up within 48 hours and management transferred within 72 hours.

We have in place, Section 106 of the Prince William Sound Tanker Spill Prevention and Response Plan and the agreement between Alyeska and the individual tanker owners, which negated the need for this similar provision in the Compliance Order by Consent. In addition, a large number of tankers in the TAPS trade have apparently satisfied your concerns in this area, as they are not required to modify their plans, presumably because Section 106 and the Contract are in place and adequate.

Alyeska and the plan holders agree with the Department as to the importance of a "smooth and efficient" transition of management and resources in a spill. We respect and share that concern, but ask the Department to consider the bind that puts all parties in. Transition is neither abrupt, nor easy to generalize.

We believe Section 106 of the PWS Tanker Spill Prevention and Response Plan recognizes this concern. In real terms, Alyeska will not leave the day the spiller arrives and in some cases will provide people and some resources that will stay with the spiller through the spill. All parties desire the same end result.

We would prefer to have the Department recognize the complex and company-by-company nature of this request and join with Alyeska and other members of the steering committee, through the upcoming transition exercises, to fully appreciate and examine the tenets of management transfer, as they apply both to the spiller and the regulatory agencies. Then, we can all assess the issues and participate in an open evaluation of guidelines, intended to ensure smooth transition.

Therefore, Alyeska requests this issue be placed in the Steering Committee for resolution by January 14, 1991. This proposed schedule will allow time for us to complete the

scheduled BP and Exxon transition drills and review lessons learned with all concerned. Further, Alyeska requests that: (1) all vessels contracting with Alyeska in the TAPS trade be treated equal, (2) the information gathered as a result of the upcoming transition workshops and exercises be considered and (3) this specific condition be modified to reflect these points as soon as possible, but not later than by November 14th, 1990.

Failure to Implement: General Comment

The linkage between AS 46.04.030 (g) and "those resources agreed to through the continuing technical work sessions" must be formally achieved in the language of the final plans, to prevent misunderstandings.

CONCLUSION

The above comments are truly intended to clarify some of the points raised in your conditional approval letter. They are offered as clarifications and comments and, with regard to "condition 6", are intended to fully utilize the Steering Committee process. As mentioned in Alyeska's transmittal letter, we would appreciate your written responses to our letter as the issues and subject matter are very important.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

SOUTHCENTRAL REGIONAL OFFICE
3601 C STREET, SUITE 1334
ANCHORAGE, AK 99503

STEVE COWPER, GOVERNOR

(907) 563-6529

November 2, 1990

Michael J. Murphy
Vice President, Operations/Engineers
American Trading Transportation Co.
555 Fifth Avenue
New York, NY 10017

Dear Mr. Murphy:

Re: Conditional Approval of Prince William Sound Contingency Plan

The Alaska Department of Environmental Conservation (the Department) is in the process of reviewing your Prince William Sound Contingency Plan submitted on October 1, 1990. Recently, the Department completed its initial review of the Alyeska Pipeline Service Company's "Prince William Sound Tanker Spill Prevention & Response Plan" ("Alyeska plan"). Your company's plan relies upon and incorporates by reference the various components of the Alyeska plan, and by contract makes Alyeska your response contractor. Because your plan incorporates the Alyeska plan and uses Alyeska as a response contractor in implementing your plan, discussion of the current status of the Alyeska plan is appropriate here.

STATUS OF ALYESKA PLAN. The Department has been regularly working with Alyeska to increase Alyeska's capability to implement its "base-level plan" for more effective performance in spill prevention, response and preparedness. "Base-level plan" refers to the development of a minimum response capability to meet the current requirements of AS 46.04 while Alyeska works towards meeting the enhanced requirements of AS 46.04 which become effective on June 1, 1991.

The Department's review of your contingency plan is based upon the Department's evaluation of Alyeska's plan to date, and upon Alyeska's maintenance of satisfactory performance capability in the implementation of this plan. Alyeska's "base-level plan" is acceptable to the Department, in its pertinent provisions, under the standards now in effect in AS 46.04 and 18 AAC 75. In some instances, however, the Department has qualified Alyeska's plan to enhance performance or to identify areas where improvements are needed. These qualifications are based upon information obtained as a result of technical working group meetings, training exercises, and field drills involving Alyeska personnel, the U.S. Coast Guard, the Regional Citizens' Advisory Council, and the Department. To date, the Department and Alyeska have agreed to the following qualifications to the plan:

1. Alyeska will obtain additional equipment to increase its present nameplate skimming capability to 25,000 bbls/hr and will station its response equipment to provide for full deployment and operation at the scene of an oil release within no more than 12 hours after the release.
2. The four skimming platforms presently in place will be deployed and operational at the release scene within 4, 6, 9, and 12 hours, respectively, weather conditions permitting. Alyeska will evaluate the feasibility of increasing the numbers of skimming platforms to five or six to more effectively utilize the additional skimming capability.
3. Alyeska will maximize the effectiveness of its response equipment by deploying and operating the equipment as close to the source of the release and for as many hours per day as possible.
4. Where possible, Alyeska will deploy response equipment in multiple tiers. Mechanical recovery, dispersants, and burning options will be used in accordance with pre-approved, established procedures.
5. Nighttime boom deployment and configuration can be effectively accomplished at least under some conditions and mechanical recovery of oil at night should occur when feasible.
6. Local fishermen and vessels can be effectively utilized in boom deployment and configuration and should be included in response strategies.
7. The prevention and response measures incorporated into the present plan do not clearly identify minimum weather and other environmental conditions (wind, ice, daylight, etc.) needed to effectively implement the plan. Alyeska will continue to work with the Department to resolve the associated prevention and response issues.

To assist in identifying and resolving issues important to the development of an effective plan, the Department, in conjunction with the Coast Guard, RCAC, Alyeska, and tanker owners and operators, have established a Steering Committee and several Technical Working Groups. The Department will continue to work directly with Alyeska through the Steering Committee and the Technical Working Group meetings, where appropriate, to resolve issues related to the Alyeska plan.

CONDITIONAL PLAN APPROVAL. The Department hereby grants your Prince William Sound Contingency Plan conditional approval under AS 46.04.030 (e), based upon your incorporation of Alyeska's plan and your contract with Alyeska for initial response. The approval is conditional for two reasons. First, your Prince William Sound Contingency Plan incorporates the Alyeska "base-level plan" which will be changing over the next several months to meet the new legislative requirements of AS 46.04, and therefore, your plan will likewise be changing and subject to further review. Second, additional data and performance evaluation are required in order for the Department to determine that your contingency plan will, in the long term, provide the necessary level of protection and resources sufficient to protect environmentally sensitive areas and to prevent, contain and clean up potential oil discharges from your shipping operations. Accordingly, plan approval is only conditional at this time.

This conditional approval applies to the following tanker vessels:

M/T CHESAPEAKE TRADER (Charter and Response Coverage by Exxon)
S.S. AMERICAN TRADER (Charter and Response Coverage by Brit. Pet.)

CONDITIONS UPON WHICH PLAN APPROVAL GRANTED. Under AS 46.04.030 (e) the Department "may attach reasonable terms and conditions to its approval of an oil discharge contingency plan" See also 18 AAC 15.090. Conditional approval of your contingency plan is granted subject to the following terms and conditions:

1. Because of the requirement to enhance prevention and response capability by June 1, 1991, you must submit, for Department approval, a list of target goals and implementation schedules to resolve the issues identified below. Since the new legislative requirements deal primarily with initial response, those requirements must be addressed through the Alyeska plan or through revisions to your plan. These issues will be discussed through the six technical working groups and the Steering Committee which are presently reviewing prevention and response issues. The schedules must include at a minimum the development of final reports with recommendations to be submitted to the Steering Committee by March 1, 1991. The Steering Committee recommendations must be made to the Department by April 1, 1991. The issues to be addressed are:
 - a. The development and maintenance, to the satisfaction of the Department, of additional nameplate skimming capability to a total of 25,000 bbl/ hr. to be deployed throughout Prince William Sound;
 - b. The deployment of 30,000 feet of ocean boom in order to support a rapid response capability in Prince William Sound;

- c. The development of a response strategy that provides for rapid deployment of skimming equipment and boom at the scene of the spill. This aspect of the initial response is critical for a successful response and the plan must contain provisions to demonstrate this capability. The plan should also provide for the use of best available technology;
 - d. The continued research and development of a very high capacity and/or large volume skimming platform and/or vessel that will increase overall oil recovery capability to meet the June 1, 1991 planning standard of AS 46.04.
 - e. The development of a response strategy that integrates the use of mechanical clean-up as the primary method with the use of dispersants and/or burning as applicable under various, specified circumstances;
 - f. The identification of the high risk areas for oil spill release and the prevention measures that have been or will be implemented to significantly reduce the potential for a release in these areas.
 - g. A plan to provide and deploy sufficient resources to protect environmentally sensitive areas and areas of local concern.
- 2. Not later than January 31, 1991, you must submit to the Department an action checklist for deployment of response personnel and equipment. The checklist must identify the timeframe in which these actions will be taken in the event of a drill or an actual oil discharge.
 - 3. Not later than June 1, 1991 equipment for implementation of the hatchery protection plan must be in place and functional.
 - 4. Not later than May 1, 1991, you must submit a revised copy of your contingency plan, including the Prince William Sound Tanker Spill Prevention and Response Plan, and any revisions thereof. This revised plan should address at least the items identified above, as well as any other issues raised through the Technical Working Groups or the Steering Committee.
 - 5. Not later than November 16, 1990, you must submit to the Department an updated list of the documents included by reference in your contingency plan. Where applicable, these documents must be referenced by title, author and date, and any other information that would more clearly identify the documents. The "Prince William Sound Shoreline Cleanup Plan,"

which was referenced by many plan holders, should identify the author of the plan to distinguish it from other plans which may have a similar title.

6. Not later than November 16, 1990, you must provide a statement to be included in your plan which states that any transfer of management decisions or operations during a spill response from Alyeska to you or another party must receive the explicit approval of the Department before the transfer occurs.
7. Not later than November 16, 1990, you must submit a management approval letter which indicates that your company's management has endorsed the plan and committed the resources necessary to implement the plan. This letter must be signed by a management representative that has the authority to commit the company to the implementation of the plan.
8. You must immediately notify the Department of any change in the contractual relationship with your response contractor that would affect the response, prevention and preparedness capabilities outlined in your plan. You must also abide by all continuing obligations imposed upon you as a holder of a contingency plan as those requirements are set out in AS 46.04 and 18 AAC 75.305-.395.

EXPIRATION DATE OF APPROVAL. The conditional approval of your plan is effective immediately. This approval will expire at 11:59 p.m. on May 31, 1991. During this time, the Department will continue to work through the Technical Advisory Groups and the Steering Committee on issues related to your Prince William Sound Contingency Plan. In accordance with AS 46.04.030(f), the Department may terminate this approval prior to the May 31, 1991 date if deficiencies are identified that would adversely affect your company's spill prevention, response and preparedness capabilities. Upon expiration or termination of the approval, under AS 45.04.030(c) you may not cause or permit the transfer of oil to or from your vessel in Alaska unless you first secure a new approval of your contingency plan from the Department.

MODIFICATION. The Department may, after notice and opportunity for hearing, revoke or otherwise require the amendment of your plan under AS 46.04.030(f). In that connection, please review the conditions set out in AS 46.04.030(f) and the notice of nonreadiness obligation imposed on you by 18 AAC 75.375.

No amendment of your contingency plan, or the conditions of this approval, which affect response, prevention and preparedness capabilities, is permitted absent the prior written consent of the Department's Regional Supervisor overseeing implementation of your plan.

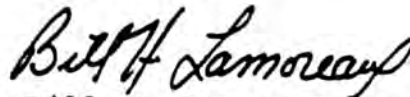
FAILURE TO IMPLEMENT. As holder of an approved contingency plan, under AS 46.04.030(g) your failure to have access to the quality and/or quantity of the resources identified in the plan, in the event of a spill, to respond with those resources within the time required by law is a violation of Alaska law. This also includes those resources agreed to through the continuing technical work sessions that will be ongoing over the course of this Conditional Approval. Please also carefully review AS 46.04.030(g) so that you fully understand your obligations.

CRIMINAL SANCTIONS. In addition to subjecting you to civil penalties and damages, any violation of AS 46.04, a regulation issued thereunder, or a condition of the contingency plan approval may also subject you to criminal penalties under AS 46.03.790.

ADJUDICATORY HEARING. Within thirty days of service of this conditional approval, you or any other person may request an adjudicatory hearing if you or the person disagrees with the Department's decision. The request for a hearing must be served on the Commissioner within the thirty days. The contents of the request must be consistent with 18 AAC 15.200.

If you have any questions about any of the above, please contact Joe Sautner or Steve Provant at this office.

Sincerely,



Bill H. Lamoreaux
Regional Supervisor

BHL:JS:ect
Enclosures

cc: Jim Hermiller, Alyeska Pipeline Co.
Roger Gale, BP
R.M. Weatherford, Exxon
Les Leatherberry, ADEC

September 5, 1990

Letter No. 90-7774-G
File No. 7.11.07

Bill Lamoreaux, P.E.
Regional Supervisor
Alaska Department of Environmental Conservation
3601 C Street, Suite 1334
Anchorage, Alaska 99503

RE: August 29th, 1990 letter from Bill Lamoreaux to
Jim Hermiller

Dear Bill:

Since we have talked, I wanted to provide Alyeska's views on your recent letter to Mr. Hermiller.

In the main, we found your letter to be positive, constructive and indicative of our mutual goals to work closely with you, the USCG and the Regional Citizen's Advisory Committee (RCAC) to solve unique and difficult problems. We are responding quickly to your letter however, to clear up possible misunderstandings that might threaten this process and to clarify some details resulting from our joint meeting with the tanker owners.

The first concern we have deals with the philosophical "ground-rules" we believed governed the "working group" process. We respect and expect that your regulatory mission gives you every right to make the final decisions subject to normal due process criteria. We also acknowledge that the "working group" process can only influence those decisions so long as sound, technical and defensible proposals are brought to bear on a particular problem. To that end, one part of your letter seemed inconsistent or confusing.

The conclusion "that 25,000 barrels/hour of nameplate skimming capacity should allow Alyeska, under favorable conditions...to recover about 150,000 barrels in 72 hours" did not seem to stem from our working groups. Our concern is not over the numbers per se but the missing step where a conclusion appears absent any presentation and discussion by the working group. Therefore we can only accept that the statement may have meant for planning purposes that "recovery could be at least 150,000 barrels in 72 hours."

We believe that the assessment of how well the nameplate capacities of the Prince William Sound Plan response effort meet the planning standards described in H.B. 567 should remain with the working group process for further review.

That review should acknowledge that no level of response equipment will ever guarantee complete removal of a catastrophic oil spill on water and that plan approval should be based on the dual priorities of prevention and realistic response planning, in the framework created by the legislation. Alyeska's criteria for response planning is to determine what is the appropriate type of equipment to utilize shortly after a spill to achieve maximum cleanup. As we have demonstrated and agreed with the Department in the working group process, the amount of equipment appropriate to plan for a 300,000 barrel spill is limited by the strategies for using the equipment and the space available to deploy the equipment to respond to the oil on water. In terms of meeting the newly created planning standards, this analysis leads to the conclusion that the 25,000 barrel per hour nameplate capacity and deployment strategies currently under discussion in the working group is appropriate to meet a clean up standards of at least 150,000 barrels in 72 hours.

We, like you, also do not believe that a straight extrapolation from the above formula achieves the planning level for 300,000 barrels in 72 hours. The evolution of response capability in PWS should be based on conclusions drawn from principles, mutually accepted as technically sound and defensible, in the working group process.

That same process has been useful for discussion of spill prevention. In mandating prevention, the legislature gave very little guidance. In Alyeska's view, prevention should attempt to reduce identified risks, such as presented by the Valdez Narrows. The legislature has agreed that reduced response requirements can serve as an incentive for prevention expenditures. We should continue to balance prevention and response planning in the working group discussions. As such, we believe that the significant prevention efforts already in place should be viewed both to allow operation in more adverse weather conditions and as a basis for evaluating potential reductions in the response capability that must be on hand.

I do not wish to dwell on these points, but we have placed a great deal of trust and confidence that our working groups can achieve answers to problems and questions that are unique in all the world. Our devotion to this process must remain high, which requires diligence by all parties.

The other issue concerns the achievements of the meeting with the tanker owners. We understand that you accepted the broad "headings" of what they proposed would be the components of their complete plan. Those being:

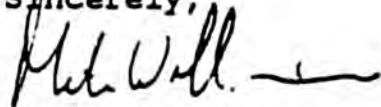
- Shipowner Contract with Alyeska for Initial Response
- PWS Tanker Spill Prevention and Response Plan
- Supplemental Beach Clean-up Procedures
- Lightering Operation Guidelines (OCIMF)
- Shipowner Management Transition Plan
- Shipowner Core Plan and Vessel Specific Information.

The Tanker owners also committed to present their plans to you October 1, 1990, which corresponds to expiration of the last amendment to the Compliance Consent Order. That leaves legal issues on the table that are important to resolve in a timely manner. Accordingly we are scheduled to meet again with you next Thursday, September 6th and should attempt to resolve those issues. We do not believe that Alyeska needs to continue to guarantee response on behalf of vessels through a consent order, but the vessels should commit for themselves to the response the state deems appropriate under the existing circumstances.

We also propose to resolve an outstanding issue dealing with vendor contracts.

The meeting seems a good time to develop the flow chart, mentioned by Nick, that outlines our respective options, a work plan and the schedule to complete these projects. We will come prepared to discuss these issues, and hope to reach a mutual understanding of the points raised in this letter.

Sincerely,



M.F.G. Williams,
Vice President, Environment and Contingency

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

SOUTHCENTRAL REGIONAL OFFICE
3601 "C" STREET, SUITE 1334
ANCHORAGE, AK 99503

(907) 563-6529

August 29, 1990

James Hermiller
Chief Operating Officer
Alyeska Pipeline Service Company
1835 S. Bragaw Street
Anchorage, AK 99503

Dear Mr. Hermiller:

ADEC is continuing the review of the Prince William Sound Tanker Spill Prevention & Response Plan (Alyeska plan) submitted December 31, 1989. Part of that plan includes initial spill response capability and prevention. Additionally, these topics have been the subject of several meetings between Alyeska and ADEC over the past several months. At this time ADEC is prepared to identify what we consider to be a minimally acceptable baseline to satisfy current state law, while keeping in mind the new requirements under H.B. 567, applicable June 1, 1990. This letter is to give notification to Alyeska concerning these portions of Alyeska's plan as to changes necessary to achieve this acceptable baseline. These items are included in detail as an enclosure.

Where deficiencies have been identified, the Department will require that Alyeska modify the plan on a mutually acceptable compliance schedule. In some cases, where approval is dependent on a demonstration of performance by field testing, or the need for further analysis through technical review, the Department will continue to work with Alyeska on an informal basis in technical sessions, to reach agreement. Based on the results of these analyses, Alyeska will be required to provide different or additional equipment, revise strategies or implement operational restrictions to upgrade and improve the prevention, preparedness and initial response capabilities of the plan. The State believes the Department will have to define the level of response needed to meet the requirements of H.B. 567 and will place the Prince William Sound Spill Prevention & Response Plan in the forefront in compliance efforts.

We are also in the process of evaluating the Alyeska plan taking into consideration geography, climate and weather considerations in the sense of both preparedness and prevention; training, drills and field manuals from the standpoint of readiness; and other appropriate Alaska statutes and regulations. A number of the comments in ADEC's letter to you on November 2, 1989 are concerns the Department still has about Alyeska's plan and these concerns will be factored into our review. Alyeska and the Department are well on the way towards resolving a number of these concerns and

August 29, 1990

by ~~contending~~ to work together through technical task forces, we should ~~be able~~ to reach agreement on these and other concerns as they ~~surface~~. The department will have these detailed comments to you in the near future.

The department considers the Alyeska plan to be a segment of the overall plan for Prince William Sound, and when approved (as part of the Prince William Sound plan) will fulfill the initial emergency response to an oil spill in Prince William Sound. It is the responsibility of the shipping companies to develop a contingency plan for Prince William Sound which should incorporate the Alyeska plan through a contractual arrangement. An approval decision cannot be reached until the entire contingency plan for Prince William Sound has been submitted. In the interim, the department proposes that the Compliance Order by Consent be revised to reflect the need for an increased level of prevention and preparedness by Alyeska at this point in time, as we work towards meeting the requirements of H.B. 567. Until such time that the state receives and takes action on the overall Prince William Sound contingency plan, Alyeska will be bound by the order, to be responsible for all aspects of a contingency plan capability in Prince William Sound. We will propose to the shipping companies that they agree on a Compliance Order by Consent with the department which will provide for submittal of the Prince William Sound contingency plan incorporating: (1) a contractual arrangement to include the Alyeska plan to provide for preparedness, prevention and initial response; (2) a mechanism for "turn-over" of spill management to the responsible party; and (3) for continued response and long term cleanup.

I also want to update you on the status of the Alaska Coastal Management Program (ACMP) consistency review process. Review packets were sent to other State agencies and affected coastal districts, and public meetings have been held on the Alyeska portion of the overall Prince William Sound contingency plan. We are presently at that point in the ACMP review process schedule where we must develop a proposed consistency determination. However, since the department has not yet received the entire plan for Prince William Sound, any determinations that are made can only be based on one portion of the contingency plan. Therefore, we are reluctant to proceed until the shipping companies plans are available and bring the entire plan into focus. Once the entire contingency plan is available we will consider completing the proposed consistency determination in phases, if we can do so without jeopardizing the process. This would allow us to move forward with an approvable portion of the contingency plan and to finalize our actions so that Alyeska or the shipping companies can begin implementation of any new requirements.

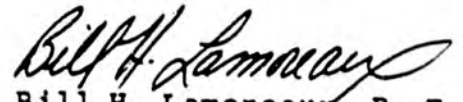
) James Hermiller

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August 29, 1990

I am encouraged with the progress we have been making and believe that the process we have been following will continue to help us develop Alyeska's plan into an effective preparedness, prevention and initial response document.

Sincerely yours,


Bill H. Lamoreaux, P. E.
Regional Supervisor

BHL:SP:ep
Enclosure
cc: Fred Garibaldi
B.P.America

)

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Requirements for Upgrading the Alyeska Prince William Sound
Tanker Spill Prevention & Response Plan

August 29, 1990

This enclosure to ADEC's August 29, 1990 letter to James Hermiller, Chief Operating Officer for Alyeska, is to establish prevention measures and skimming capability requirements in addition to those provided in the Prince William Sound Tanker Spill Prevention & Response Plan at the present time. This capability will establish the baseline from which Alyeska will progress to meet the requirements of HB 567. The State will work with Alyeska to modify the existing Compliance Order by Consent to incorporate into it a timeframe in which these prevention measures and skimming requirements are to be achieved and incorporated into Alyeska's plan.

Since the overall contingency plan for Prince William Sound has not been submitted, the department will not take approval action on the Alyeska portion of the plan. However, the state will give Alyeska direction by indicating the approvable segments of the Alyeska plan and will continue to work with Alyeska to resolve areas where deficiencies exist. The State will initiate approval action upon receipt of the tanker owners' plans which must include a contractual arrangement giving Alyeska responsibility for the preparedness, prevention and initial response portions of the contingency plan. The Terminal Contingency Plan which has just recently become available for review must be coordinated with the Alyeska component of the Prince William Sound plan. At the present time the coordination between the Terminal and PWS plan is inadequate.

Present Skimming Capability

Alyeska presently has a nameplate skimming capability of 16,960 bbl/hr. The State has requested that Alyeska provide two additional 2000 bbl/hr pumps to increase the skimming capability to approximately 21,000 bbl/hr on five or six major skimming platforms. Alyeska has also agreed to pursue the development of an intake structure for eight existing transfer pumps of 2000 bbl/hr pumping capacity each to provide a total of 16,000 bbl/hr pumping capacity. The pumps will be distributed equally among four response barges to provide 4000 bbl/hr high rate pumping capability per barge. The intent is to increase recovery capability during the very early hours of the spill when these pumps might be effective. This will give Alyeska a total nameplate recovery and high rate pumping capability of approximately 37,000 bbl/hr. Alyeska has proposed to have the equipment deployed so as to have 16,000 bbl/hr capability available in the Sound, 8000 bbl/hr at Port Etches at Hitchinbrook Entrance and 8000 bbl/hr at Naked Island and 21,000 bbl/hr in Port Valdez.

The state is requiring that Alyeska increase the existing nameplate skimming capacity by acquiring the proposed addition of 4000 bbl/hr and, at a minimum, an additional 4000 bbl/hr capacity to give a total amount of equipment to provide 25,000 bbl/hr nameplate skimming capacity. This equipment will be distributed on the skimming platforms so that two platforms will have 8000 bbl/hr skimming capacity and be stationed at Naked Island and Port Valdez. A third platform with 4000 bbl/hr skimming capacity will be stationed at Port Etches. The other skimming units will be located in Valdez. Alyeska must develop a checklist of the actions that will be taken to: (1) have one 8000 bbl/hr skimming unit operating at the scene of an incident within five hours; (2) have either the 4000 bbl/hr skimming unit or the other 8000 bbl/hr skimming unit at the scene and operational within seven hours and; (3) have all other skimming units at the scene and operational within twelve hours.

In addition, Alyeska must undertake the development of a very high capacity pumping system with intake structure which will increase their recovery capability to approximately 41,000 bbl/hr, 25,000 bbl/hr skimming and 16,000 bbl/hr pumping. If such a system does not provide a suitable, high rate oil recovery capability then the existing system must be augmented by currently available skimming equipment. At the same time, other options to develop a very high capacity skimming system in the 30-40,000 bbl/hr range must be pursued by Alyeska.

~~The acquisition of a complete skimming capacity of approximately 25,000 bbl/hr must be made by Alyeska, under the most favorable conditions, to meet the requirements of H.B. 567. The analysis of the technical report.~~

Additional Skimming Equipment

Subsection K of HB 567 requires that Alyeska maintain, at a minimum, in its region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 300,000 bbl discharge within 72 hours. The State will continue to work with Alyeska to reach a determination of the response capability necessary to achieve the planning standard of H.B. 567 and to determine the variables or conditions that will be applied in making decisions on the amount of additional skimming capability needed beyond the initially required base amount. We want to point out that we do not believe that a straight extrapolation from the

150,000 bbl/72 hrs number utilizing existing skimming equipment is adequate to achieve the planning level of 300,000 bbl/72 hrs and in making this determination we will consider the following:

- That only a finite amount of equipment can effectively be deployed in the spill area during the first few hours. If the oil is not contained and substantially cleaned up within the first 24-36 hours, the initial equipment and additional skimming equipment deployed to deal with an increasing spill area will be less and less effective and a point of diminishing returns will be reached.
- That for purposes of this analysis of skimming capabilities we will assume that equipment efficiencies are initially high due to the high encounter rates and we have utilized the best available data to determine the decrease in equipment efficiency as the spill progresses. Also, impacts of weather and nightfall adversely affect the skimming equipment efficiencies which have been factored into our evaluations.
- That beyond a certain maximum, additional, effective recovery capability can only be obtained with a high capacity recovery system available early in the spill that can significantly increase recovery during daylight hours to offset the reduced efficiency of existing equipment due to darkness, adverse weather and time.
- That more accurate factors must be developed to take into account various parameters influencing equipment performance such as available daylight, weather, historical skimming performance, response time, oil recovery strategy, rate of oil volatilization, losses in the water column, oil viscosity, emulsification, the overall thickness of the floating oil and the free water that is recovered in the oil.

Prevention and Prevention Credits

While there would still be a high risk that a spill could occur under conditions whereby the planning standards of HB 567 could not be achieved, the risk of not being able to mount an effective response would be significantly reduced by requiring the high rate skimming capability resulting from the process as described above. ~~We must also consider that the chances of a spill power grounding such as happened with the Exxon Valdez has been reduced beyond~~ Valdes Arm in unrestricted areas of Prince William Sound through the establishment of the tanker vessel escort system. Therefore,

August 29, 1990

in the open areas of Prince William Sound any incident which might occur at this point in time would most likely result in the release of less oil than occurred from the Exxon Valdez. We expect the implementation of additional prevention measures such as a Prince William Sound/Valdez Arm/Valdez Narrows/Port Valdez wind restrictions, tanker vessel tracking system and tractor tug escort in towing harness configuration through Port Valdez, Valdez Narrows and Valdez Arm would almost eliminate the likelihood of a grounding with a major release of oil.

The state will require the establishment of wind restrictions as a prevention measure to control tanker movement (rather than established on ability to operate clean up equipment). Alyeska has implemented the Ship Escort Response Vessel System (SERVS) which has some capability to reduce the risks associated with tanker movement in the wide open spaces of Prince William Sound. ~~escort system is modified to provide similar prevention in the restricted areas. Prevention credits will be allowed for tanker movement during these periods of time when clean up would not be marginally effective.~~ The State is allowing this because the likelihood of a major spill would be significantly reduced with the implementation of such a system. As other prevention measures are added at a later time, additional credits (possibly to reduce clean up equipment inventories) will be considered.

Because of the significant gains in prevention to be made by a system to control disabled tankers through Valdez Narrows and Valdez Arm, the State is requiring that Alyeska implement a vessel escort system. This should be implemented as soon as possible in order to allow the immediate control of disabled, laden tankers through the restricted areas of Valdez Narrows and Valdez Arm. The specifications are written for a towing vessel, that if it were attached to the tanker in a stern towing harness, it would have the ability to prevent a grounding. If Alyeska can demonstrate some other mechanism which will accomplish the same degree of control then that system will be evaluated.

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

SOUTHCENTRAL REGIONAL OFFICE
3601 "C" STREET, SUITE 1334
ANCHORAGE, AK 99503

(907) 563-6529

August 22, 1990

M.F.G. Williams
Vice President
Environmental Planning & Control
Alyeska Pipeline Service Company
1835 South Bragaw Street
Anchorage, Ak 99512

Dear Mr. Williams:

The technical working meetings we have had with you and your staff to consider Alyeska's Prince William Sound Tanker Spill Prevention & Response Plan (Plan) have been very productive and have resulted in our making progress to identify the necessary components for an adequate plan. We have reached a common understanding on some pertinent topics, and have identified other topics and the actions needed to provide further clarification. Enclosed is our understanding of the results of the meetings, to date, entitled "Results of ADEC, Alyeska, Coast Guard, RCAC C-Plan Technical Working Sessions as of August 2, 1990". The plan, as we are considering it at this time, includes both the document as currently drafted and the verbal concepts, strategies, etc. as presented and discussed during our meetings. Letting you know the portions of the Plan that we are in conceptual agreement with should allow you to begin developing those aspects of the Plan and to move ahead with implementation in those areas as soon as possible.

The enclosure also records topics still in need of resolution and the action items that need to be accomplished in order to obtain the information necessary to bring these items through a decision making process. In some cases the State will establish performance criteria for operations and equipment critical for the maintenance of a high level of prevention and response capability. The criteria will include such items as retention time for oil/water separation, minimum vessel and barge performance based on expected functions and weather restrictions based either on demonstrated capabilities to conduct various prevention operations or the ability to conduct oil clean up operations. We also expect to establish a base nameplate skimming capability that Alyeska must provide and to develop an approach for achieving the planning standard to contain and cleanup 300,000 bbl in 72 hours specified in H.B. 567 and whether any prevention credits are warranted to allow a reduction from this standard.

M.F.G. Williams

-2-

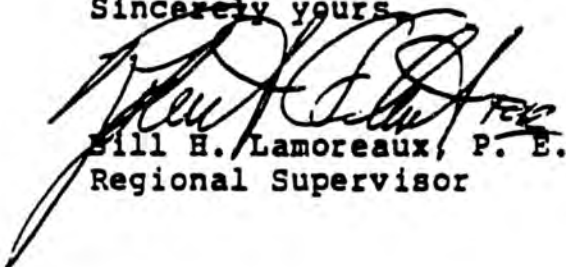
August 22, 1990

When new equipment purchases or leases are necessary in order to meet State requirements, ADEC will attempt, when appropriate, to allow sufficient time for phasing in the equipment in a manner consistent with normal contracting and construction practices. An exception to this would be in a case where performance capabilities are so lacking that it is evident a change of equipment or operational practice should be accomplished as quickly as possible.

The State also will continue to utilize a technical State-Alyeska working group approach as a forum to help evaluate operational concepts and equipment performance. The State will take information from the working group into consideration in making decisions as to what constitutes adequacy of resources and best available technology in meeting the requirements of HB 567. The State will also use the results of drills and training exercises and any other records of performance to assess compliance.

We look forward to our continued cooperative and productive working relationship with you to complete the Alyeska Contingency Plan approval process.

Sincerely yours



Bill H. Lamoreaux, P. E.
Regional Supervisor

BHL:SP:rs
Enclosure

Results of ADEC, Alyeska, Coast Guard, RCAC
C-Plan Technical Working Sessions as of August 2, 1990

The purpose of this document is to identify those areas where conceptual agreement has been reached, where further clarification and /or action is required to resolve a particular topic. Where appropriate, the State will define it's position on various topics and identify any requirements necessary for C-Plan approval.

Topics of Conceptual Agreement

- The description of Alyeska's oil recovery strategy as verbally presented includes:
 - Maintaining a mix of oil recovery equipment to provide flexibility for types, locations, and sizes of spills to maintain recovery in various weather conditions;
 - The deployment of all needed equipment in Alyeska's inventory within twelve hours of a spill;
 - Oil recovery as close to the source as possible;
 - Multiple tiers of recovery equipment;
 - Operating equipment as many hours as possible, considering safety and effectiveness;
 - Where possible selecting equipment for versatility to perform multiple roles;
 - The concept of using fishing vessels during response activities for boom handling and deployment;
 - The use of dispersant to disperse oil that escapes the mechanical recovery operations consistent with the "Oil Dispersant Guidelines for Alaska" developed by the Regional Response Team Working Group
 - Incorporation into the response strategy the use of sacrificial shorelines and areas for exclusionary booming
 - Developing very high recovery rate capability on first responding units which might encounter thick, fresh oil

- Preventing oil spills in the first place is the only guarantee that shorelines will not be oiled and that:
 - The tug/ERV escort system concept is part of an effective spill prevention system;
 - Actions should be taken to encourage shipping companies, T/V masters and pilots to operate as a team with SERVS;
 - Actions should be taken to encourage enforcement of T/V speed within Port Valdez and Valdez Narrows;
 - The Prince William Sound towing package is complex, difficult to deploy and is intended for use only in certain situations when there is time to hook it up;
 - Continue to explore vessel tracking systems
- Alyeska will increase their inventory of boom to 30,000 ft of ocean boom;
- Conceptually, Alyeska's C-Plan will be a segment of the tanker owners C-Plan through a contractual arrangement with the tanker owners, although the final details have yet to be developed and will require further review;
- Establishment of one or more technical working groups to review equipment, develop an equipment testing program and evaluate equipment effectiveness in meeting ADEC performance criteria to:
 - Continue looking at ways to make tug/ERV escort-response system more effective;
 - Evaluate the optimal sizes and types of barges and skimmers for the most effective mix of equipment;
- Establishment of a technical working group to evaluate prevention measures and their effectiveness in meeting ADEC performance criteria;

Topics on which further clarification is required in order to reach resolution:

- The "formula" for determining the amount of nameplate skimming capacity needed to deal with a 300,000 bbl spill in 72 hours considering:
 - Hours available
 - Skimming equipment efficiency
 - Alyeska's strategy
 - Changes in efficiency due to reduced daylight, the impact of adverse weather, changes in viscosity and water content of the oil
 - The concept of a high capacity recovery capability based on lightering pumps or other devices such as a large capacity skimming vessel so that maximum recovery of oil can occur in the early hours of a spill
 - Losses in oil volume due to evaporation and dispersion within the water column
 - Gains in oil volume due to emulsification with water
- Evaluation of whether to base the establishment of operational weather windows on prevention or response;
- Identification of training and drills, both from the standpoint of content and frequency, to establish and maintain an adequately trained response cadre of personnel;

As a result of our review to date the working group meetings, numerous items have been identified which require further actions. These items include:

- The ballasting and testing of a 73,000 bbl barge to evaluate it as a suitable rough seas working platform
- Development of a large capacity skimming capability using transfer pumps (lightering pumps) with a modified intake structure or other devices to facilitate the rapid uptake of oil

- Consideration of alternatives if the high volume transfer pump concept fails which will include use of additional currently available skimming devices or a large capacity skimmer
- Consideration of the concept to use a tractor tug attached to a T/V through Port Valdez, the Narrows and the Arm
- Alyeska will develop action checklists for deployment of responders and equipment for the initial response
- Testing the oil-water separation capabilities of 73,000 bbl vs. 120,000 bbl barges
- Further definition of the relationship between Alyeska and the shipping companies' C-Plans and liabilities
- Evaluation of integrated vessel tracking satellite system by Coast Guard
- Follow through with tanker owners by SERVUS to make escort system operate as team with T/V master and pilots
- The State will develop a spill scenario and establish the parameters affecting the efficiency of the response based in part on the work of Graham Lascelles and Dan Lawn to serve as a baseline for response needs
- The State will determine what skimming capacity will constitute an adequate baseline level and establish a methodology to determine and achieve the capacity to meet the planning standard of 300,000 bbl in 72 hours
- Alyeska will research the safety aspects of operating spill recovery equipment as close to the source of the spill as possible in order to increase the rate of recovery by operating in deep, fresh oil.

MEMORANDUM

TO	DISTRIBUTION	SUBJECT Oily Waste Disposal Working Group	
FROM	R. I. Shoaf <i>M. Shroy</i>	DATE January 8, 1991	FILE NO.

DISTRIBUTION: PWS Oil Spill Contingency Plan --
Steering Committee (See attached list)

Alyeska has recently added Jordan Jacobsen to its Law Department. Jordan will utilize his prior experience to help Alyeska maintain compliance in all waste disposal. His technical experience includes 7 years as a geophysicist at ARCO and he has a year and half experience as a lawyer dealing with RCRA and CERCLA matters.

While I support the exclusion of lawyers from Steering Committee and working group meetings, except when requested by the group, I request permission for Jordan to participate in the oily waste disposal working group. If you agree, Jordan will bring a constructive approach to the group that will supplement the strengths of its members. We would withdraw this request if, after several meetings, group members find Jordan's presence to be a hindrance to completion of their work.

The next meeting of this technical working group is tentatively scheduled for January 24th in Anchorage at Alyeska. If there are no objections, Jordan could attend this meeting and the issue could be raised at the next meeting of the Steering Committee on February 12th.

If you have serious objections, please let me know by January 14th at 265-8565. Thank you.

smk
21st

PRINCE WILLIAM SOUND CONTINGENCY PLAN--STEERING COMMITTEE

DISTRIBUTION LIST

ALYESKA

Nick Mitchell	FAX 265-8983
Graham Lascelles	FAX 265-8983
Larry Shier	FAX 835-6922
Tim Plummer	FAX 835-6078
Kate Montgomery	FAX 265-8983
Mark Hutton	FAX 265-8983

ADEC

Bill Lamoreaux	FAX 562-4026
Joe Sautner	FAX 562-4026
Steve Provant	FAX 562-4026

USCG

Ed Thompson	FAX 835-5153
Ed Wielickiewicz	FAX 835-5153

RCAC

Sheila Gottehrer	FAX 277-4523
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VESSEL OWNERS/OPERATORS/CHARTERERS

PWS Tanker Association	FAX 415-894-7354
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BP

Roger Gale	FAX 216-586-4557
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ARCO

Jay Ketchiner	FAX 213-590-4425
---------------	------------------

EXXON

Myron Fedak	FAX 713-656-9570
-------------	------------------

CHEVRON

Ron Holten	FAX 415-894-7354
------------	------------------

SHELL

W. Robinson	FAX 713-241-5622
-------------	------------------

TESORO

G. Burden	FAX 907-776-5546
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MORANDUM

TO	M.F.G. Williams	SUBJECT	
THRU	N. Mitchell <i>mm</i>	Proposed 6.25.90 First Meeting with ADEC USCG, RCAC, Alyeska	
FROM	M. Hutton <i>mm</i>	DATE	FILE NO.
		6.18.90	

ACTION REQUIRED Informational only

PLACE Alyeska Board Room, 5th floor

TIME 1300 -1700 hours on June 25th

SUBJECT A Scoping Session on Weather and Prevention
issues in the Tanker Spill Prevention and Response
Plan for Prince William Sound

ATTENDEES Mike Williams, Alyeska
Nick Mitchell, Alyeska
Graham Lascelles, Alyeska
Tim Plummer, Alyeska
Mark Hutton, Alyeska
Bill Lamoreaux, ADEC
Steve Provont, ADEC
Joe Sautner, ADEC
Dan Lawn, ADEC
Capt. Ed Thomson, USCG
Tim Robertson, RCAC
Owners/Shippers Representatives

AGENDA Agreement on Agenda
Discussion and Agreement on Approach
 Baseline
 Schedule
 Participants
 Process
Discussion on Issues
 Weather
 Prevention

OBJECTIVE TO WORK COOPERATIVELY WITH ALL INTERESTED AND CONCERNED
PARTIES TO DISCUSS TECHNICAL ISSUES AND A PROCESS
WHEREBY UNRESOLVED QUESTIONS AND PLAN ISSUES CAN BE
SETTLED.

DRAFT AGENDA
JUNE 25, 1990
1300 - 1700 HRS
ALYESKA BOARD ROOM (FIFTH FLOOR)

- I. Agreement on Agenda
- II. Discussion on Approach
 - A. Regulatory basis for standards (ADEC)
 - B. Administrative basis for standards (ADEC)
 - C. Industry Basis for standards (Alyeska)
 - D. Participants
 - E. Schedule and Process
 - F. Relationship to Plan approval
- III. The "Weather" issue
 - A. USCG Proposed Rulemaking
 - B. Nat. Weather Service Data
 - C. Discussion as per II. above
- IV. The "Prevention" issue as related to weather
 - A. SERVS Report
 - B. Discussion as per II. above
 - C. Recommendations

MEMORANDUM

TO M.F.G. Williams	SUBJECT	
THRU N. Mitchell	Progress Report on the ADEC/RCAC/USCG C-Plan meetings	
FROM Mark Hutton	DATE	FILE NO.
COPY TO R. Shoaf, T. Plummer	7/13/90	

Mike,

We have now met twice with most participants. I have subsequently met with Steve Provant, as per Nick's instructions, to put in words the agreements or acknowledgements that reflect where we are in the process. The essence of those agreements are:

1. The Tanker Spill Prevention and Response Plan for Prince William Sound is recognized as a contractual segment of the Tanker's Plan.
2. Preventing oil spills in the first place is the only guarantee that oil will not hit the beaches.
3. The spill response strategy proposed by Alyeska at the two meetings is acceptable including:
 - a. response close to the source
 - b. multiple tiers of equipment
 - c. operating maximum number of hours
 - d. equipment versatility where possible
 - e. fishing boats are acceptable for initial boom response
 - f. a detailed strategy is not necessary in the plan, rather a general concept backed up by "checklists"
 - g. the overall strategy is to be backed up by an explanation of the type of equipment, where located, amount, and capability to accomplish strategy
4. The tug/ERV escort concept is effective; but shipping companies, pilots and T/V Masters need to recognize that value and cooperate more fully.
5. The PWS Towing Package is complex, difficult to deploy and is intended for use only when there is time to hook it up. A faster "hook up" is desirable.
6. Agreement to increase Ocean Boom inventory to meet emergency order.

MEMORANDUM

TO	M.F.G. Williams	SUBJECT Status Report: ADEC PWS Contingency Plan Negotiations	
THRU	N. Mitchell <i>N. Mitchell</i>		
FROM	Mark Hutton <i>MH</i>	DATE	FILE NO.
COPY	Rob Shoaf	7.23.90	Not Necessary

On Friday, July 20th we held our 3rd working group meeting with ADEC/USCG/RCAC and the Contingency Plan Department. Present were Ed Thompson (USCG), Tim Robertson, Ann Rothe and Sheila Gotterher from the RCAC, Dan Lawn and Bill Lamoreaux from ADEC and Nick Mitchell, Graham Lascelles, Dave Nielson and myself from Alyeska.

This meeting was different than the first two...we walked through a table top spill and tested the logistics of matching equipment numbers to a spill event. Five significant results were noted:

1. With our "top of the triangle" strategy, it would be difficult to deploy any more equipment than we presently have, assuming it all works and can be successfully implemented. The logistics of operating all of the equipment that we have, including the fishing boats with their booms is the most limiting factor at this time, not the amount of equipment we have.
2. After 12 hours (or more) we could use more skimming systems, providing each skimming system had it's own barge. Oddly enough, our barge situation is the current limiting factor and the multiple barge/task force concept may very well be the best way to go.
3. For the working group process to work we must convince ADEC that it is counter productive (even destructive) for Dan Lawn to participate if he in fact does not represent an ADEC position. It does no good and in fact exposes us if ADEC does not come to the table with proposals based in fact and/or technical logic.
4. We may be able to add skimming/pumping capacity at the top end of the triangle by putting several lightering pumping systems on the barge we think will arrive first. This could add a real 10,000 barrels/hour to our capacity.
5. Bill Lamoreaux, in response to a question by Tim Robertson, repeated their desire to have some kind of plan approval by mid August.

At Nick's direction, I will meet today with Bill Lamoreaux and Steve Provant to put in words these results. Steve Provant and Joe Sautner were called to Juneau and could not attend the Friday meeting...the process suffered as a result.

**Table of Skimming Capacity Required
To Recover 300,000 bbls at Various
Time Intervals and at Various Skimmer Efficiencies**

<u>Hours</u>	<u>100%</u> bbl/hr	<u>10%</u> bbl/hr	<u>20%</u> bbl/hr	<u>30%</u> bbl/hr
36	8,300	83,300	41,700	27,800
34	8,800	88,300	44,100	29,400
32	9,400	93,800	46,900	31,300
30	10,000	100,000	50,000	33,300
28	10,700	107,100	53,600	35,700
26	11,500	115,400	57,700	38,400
24	12,500	125,000	67,500	41,600
22	13,600	136,400	68,200	45,500
20	15,000	150,000	75,000	50,000
18	16,700	166,700	83,400	55,600
16	18,800	187,500	93,800	62,500
14	21,400	214,300	107,200	71,400
12	25,000	250,000	125,000	83,300
10	30,000	300,000	150,000	100,000

July 12, 1990

Results of ADEC, Alyeska, Coast Guard C-Plan Technical
Working Sessions to Date

The purpose of this document is to identify those areas where agreement has been reached, where further clarification is required for resolution or where action is needed.

Topics of Agreement

- Alyeska's C-Plan does not need to include a detailed strategy, but will include the general concept as Alyeska has presented during the working sessions;
- The description of Alyeska's oil recovery strategy as verbally presented including:
 - The rationale for the present mix of oil recovery equipment;
 - The deployment of all needed equipment in Alyeska's inventory within eight hours of spill;
 - Oil recovery as close to the source as possible;
 - Multiple tiers of recovery equipment;
 - Operating equipment as many hours as possible, considering safety and effectiveness;
 - Where possible, equipment will be selected for versatility to perform multiple roles;
 - Concept of using fishing vessels during response activities for boom handling and deployment;
- Preventing oil spills in the first place is the only guarantee that shorelines will not be oiled and that:
 - Tug/ERV escort system concept is effective;
 - Encourage shipping companies, T/V masters and pilots to operate as a team with SERVS;
 - Encourage enforcement of T/V speed within Port Valdez and Valdez Narrows;
 - The Prince William Sound towing package is complex,

)

difficult to deploy and is intended for use only in certain situations when there is time to hook it up;

- Alyeska will increase their inventory of boom to meet the State's Emergency Order requirements;
- Conceptually Alyeska's C-Plan is a segment of the tanker owners C-Plan through a contractual arrangement with the tanker owners;
- Establish a committee chaired by RCAC to review equipment, develop an equipment testing program and evaluate equipment effectiveness in meeting ADEC performance criteria to:
 - Continue looking at ways to make tug/ERV escort-response system more effective;
 - To evaluate the optimal sizes and types of barges and skimmers for the most effective mix of equipment;
- Establish a committee chaired by the RCAC to evaluate prevention measures and their effectiveness in meeting ADEC performance criteria;
- Work together in a tabletop exercise to evaluate the effective use of response equipment in dealing with a number of spill situations and determine:
 - The maximum amount of equipment that can effectively be deployed within the first 12 hours; within the next 60 hours
 - The impact a high volume skimmer would have in providing added capacity

Topics on which further clarification is required in order to reach resolution:

- The "formula" for determining the amount of nameplate capacity needed to deal with a 300,000 bbl spill in 72 hours considering:
 - Hours available
 - Skimming equipment efficiency
 - Alyeska's strategy
 - Impact of prevention measures

nameplate

- Evaluation of whether to base the establishment of operational weather windows on prevention or response;

Action Items

- Ballasting of a 63 or 73,000 bbl barge to evaluate it as a suitable rough seas working platform
- Evaluate the potential of a large capacity skimming vessel
- Consider the concept of using a tractor tug attached to a T/V through Port Valdez, the Narrows and the Arm.
- Alyeska will develop action checklists for deployment of responders and equipment for the initial response
- Test oil-water separation capabilities of 73,000 bbl vs. 120,000 bbl barges
- Further definition of the relationship between Alyeska and the shipping companies C-Plans and liabilities
- Evaluation of integrated vessel tracking satellite system by Coast Guard
- Follow through with tanker owners by SERVUS to make escort system operate as team with T/V master and pilots

MEMORANDUM

TO	M.F.G. Williams	SUBJECT Report of the 4th meeting between ADEC/USCG/RCAC and Alyeska on the PWS Contingency Plan	
THRU	Nick Mitchell <i>WM</i>		
FROM	Mark Hutton <i>MH</i>	DATE	FILE NO.
COPY	Rob Shoaf	8.4.90	Not Necessary

On Thursday, August 2nd, all members of the working group met for the fourth time in Valdez. Present were Bill Lamoreaux, Steve Provant, Joe Sautner and Dan Lawn from ADEC; Sheila Gotterher and Jason Wells from RCAC; Ed Thompson from the USCG; and Nick Mitchell, Graham Lascelles, Dave Nielson, Tim Plummer, Gary Bader and Mark Hutton from Alyeska.

The agenda is attached, but more to the point, we focused on (1) Graham Lascelles' report on skimming capacity and (2) a discussion of the "baseline" issues to be approved in August and those that require additional work in the working group process.

FULL REPORT

1. THE MOST PRESSING ISSUE DISCUSSED was the relationship of our pending "approval" to terms and conditions related to:
 - a. what constitutes "baseline";
 - b. precisely, how the "set-aside" HB 567 issues can be handled;
 - c. how to link our conditional approval to
 - (1) a time-line for the submission of the Tanker/Owner's Plan and
 - (2) to the longer term issues which have now been set aside for the Tanker/Owner's plan--but which will be related in some fashion to the approval of our plan;
 - d. general confusion about what to expect from the Tanker/Owners Plan;
 - e. concern about ADEC receiving single plans from each tanker/owner or a single plan for same; and
 - f. all past comments on our Plan.

We resolved to meet again August 15th in Anchorage to discuss this issue and hopefully come to full agreement of all outstanding issues. The hardest issue will be the relationship of the Tanker/Owners Plans; but the intent is to "go as far as we can go" with our understanding of some of the more fundamental topics in the longer term plan, then schedule a meeting with Tankers/Owners and the working group, as soon as possible to try and understand the exact nature and extent of their proposed plans. This meeting will likely be scheduled towards the last of August.

ADEC (Lamoreaux) reiterated their intent to have the Alyeska Plan approval in August, with all of the previously mentioned caveats.

2. THE IMPACT OF FEDERAL LEGISLATION (reports from the House and Senate Conference Committee) was discussed. There seemed to be some overlap and possible conflict with (1) existing State Requirements for our Plan (namely in the size of spill to be addressed) and (2) the role of the Regional Response Team in reviewing our Plan. We agreed to bring this up as a full agenda topic at the next meeting following Plan approval. A preliminary copy of the Conference Report was distributed.

3. TIM PLUMMER'S REPORT ON SERVS, highlighted the changing contractual arrangements for the ERVs, the new ocean tug and the replacement of the Florida Bay as well as general discussion of tractor tugs. He also reported the status of the "ballasted barge" demonstration was delayed pending bad weather.

4. TIM PLUMMER'S REPORT ON THE NAVIGATION COMMITTEE, confirmed a meeting scheduled for August 16th in Anchorage at which the following persons would be invited; Commander Thompson, Larry Shire, Ed Murphy, Chris Gates and ADEC. He indicated the agenda was non-specific to allow a general discussion on the purpose and scope of the committee. There was no disagreement that the Pilot issues should be raised at this time.

5. GRAHAM LASCELLES' REPORT ON A POSSIBLE RECOVERY CHRONOLOGY FOR A 300,000 BBL OIL SPILL IN MID PRINCE WILLIAM SOUND made for spirited debate. It was a fine report that should stand as a model of protocol and preparation for such proposals. Recognizing it was prepared for a scenario of good weather and realistic, but maximized operations the debate focused on the next logical step--what about bad weather and other factors that reduce the theoretical effectiveness of a response. To that end, ADEC promised to offer some different scenarios for a theoretical response.

There was, quite naturally, general disagreement over the Dan Lawn/ADEC report and Graham's report. The differences were straight forward and focused on the fact that theLawn/ADEC report would not recognize Alyeska's strategy of "concentrating oil at the top of the triangle" and hence proposed skimmer efficiency numbers based on some world experiences and literature for late arriving equipment and old, very thin oil. As that argument wained, Dan Lawn introduced the volume and viscosity impacts from oil that may become rapidly emulsified from a release near the bottom of a tanker.

In retrospect part of the debate seems a mute point because we have agreement that our "top of the triangle" strategy is an achievable goal. Regarding the rate of emulsification and viscosity changes, we promised to begin some testing. Ed Thomson also wanted to do some testing of his own.

6. NICK MITCHELL DISCUSSED TRAINING AND DRILLS, by outlining new programs within Alyeska which would focus all oil spill contingency planning in one department, thus centralizing pipeline, terminal and PWS drills and exercises. Mitchell also proposed our strategy to link specific objectives to each drill or exercise to build, one component at a time, the total response. We also discussed the need for a common understanding regarding ADEC unannounced drills and the impact that may have on operations and contractors (fishing boats). Seemingly, there was no disagreement and the hope expressed that our vigorous schedule might preclude the need for surprise drills (at least in PWS) especially if we continue to involve ADEC and the USCG like we have to date.

7. ED THOMPSON (USCG) DISCUSSED DISPERSANTS USAGE AND NAVIGATIONAL AIDS.

He expressed the general dissatisfaction that the working group was focusing only on mechanical recovery, when there were at least 4 other responses that must commence simultaneously...dispersants, burning, exclusion and sacrificial booming and shoreline cleanup. Regarding dispersants, Thompson said he was looking for information that enough equipment and dispersants would be available, that application systems had some flexibility, that Cordova was a good choice to refuel dispersant packs and that the time-lines were appropriate and real.

Ed also reported that the Ground Positioning System (GPS) was up for 19-20 hours a day now in PWS and expected to be 24 hours a day by the end of the year. Total usage, he said would require the installation of differential correction electronics in PWS.

8. DAVE NIELSON'S REPORT ON LIGHTERING PUMPS indicated we currently have the capability of placing additional "lightering pumps" on barges to assist in the early response to a major oil spill and would increase our skimming capacity.

1112 - 2308 200

KEY POINTS IN "OIL POLLUTION ACT OF 1990",
PARTICULARLY AS IT AFFECTS ALYESKA

A. Oil Spill Liability

- The owner and operator of a vessel or on-shore facility from which oil is discharged is jointly, severally and strictly liable for damages and removal costs.
- Damages include: injury to natural resources, destruction to real or personal property, loss of ~~income~~ net loss of taxes, royalties, rents, etc., by a governmental entity; loss of profits or earning capacity and net costs of providing additional public services by a governmental entity.
- Defense^s to liability includes Act of God, Act of War, ^{and} act or omission of a third party.
- The limit on liability for an on-shore facility is \$350 million for damages and removal costs. (TAPS remains subject to unlimited liability for removal costs pursuant to the TAPS Authorization Act).
- The \$350 million liability limit may be reduced by regulation to not less than \$8 million.
- Natural resource damages are measured by (a) cost of restoring, rehabilitating, replacing or acquiring equivalent resources; (b) diminution in value of the resources pending restoration; and (c) cost of assessing those damages.
- The Oil Spill Liability Trust Fund (Fund) is available for immediate payment of claims for damages and removal costs, up to \$50 million. Amounts in excess would require Congressional approval.
- All claims must be presented to the responsible party prior to presentation to the Fund.
- A person is not liable for removal costs or damages which result from actions taken or omitted to be taken, in the course of rendering care, assistance, or advice consistent with the National Contingency Plan. (Good Samaritan provision.)

- There are general civil and criminal penalties for anyone who discharges oil, fails to comply with regulations or orders, etc.

B. Oil Spill Response Plans

- Regulations shall be issued requiring an owner or operator of a tank vessel or facility to submit for approval a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or hazardous substance.
- "Worst Case Discharge" means, in the case of a vessel, a discharge in adverse weather conditions of its entire cargo and, in the case of an on-shore facility, the largest foreseeable discharge in adverse weather conditions.
- Response plans submitted by vessels and facilities must identify and ensure the availability of private personnel and equipment necessary to remove to the maximum extent practicable, a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge.
- A tank vessel or facility may operate without an approved response plan for a two year period if the owner or operator certifies that it has ensured the availability of private personnel and equipment necessary to respond to a worst case discharge.
- A spill response vessel, operating on a not-for-profit basis, at least 50% of which is owned by U.S. citizens, may be issued a certificate of documentation to allow its employment in coastwise trade.

C. Alaska and Prince William Sound Provisions

- Tankers in Prince William Sound must be under the direction and control of a licensed pilot and in designated waters, must have on the bridge a licensed Master or mate.
- Within six months of enactment, regulations must be issued to define areas (including Prince William Sound), where tankers shall be escorted by at least two towing vessels.
- A Prince William Sound Oil Spill Recovery Institute is established to conduct research and carry out educational

and demonstration projects related to oil spills in the arctic and sub-arctic marine environment.

- Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Demonstration Programs are established for Prince William Sound and for Cook Inlet. They provide for regional citizens advisory councils in each area. In lieu of such a program, Alyeska or its owner companies may enter into a voluntary contract with an independent citizens advisory committee, so long as the committee is funded on an annual basis in an aggregate amount of \$2 million and the President annually certifies that the committee represents the interests in the vicinity.
- In addition to other requirements for response plans established by the Federal Water Pollution Control Act, a response plan for a tank vessel operating, or a facility located, on Prince William Sound shall provide for pre-positioned oil spill containment and removal equipment in strategic locations in the Sound and an oil spill removal organization consisting of trained personnel in sufficient numbers "to immediately remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater." The response plan shall also provide training, practice exercises, and periodic testing of equipment.
- A Presidential Task Force, with a two year life, is established to audit TAPS and make recommendations to the President, Congress and the Governor of Alaska concerning prevention of oil spills, damage to natural environment, and degradation or damage to public health. The task force will be funded in an annual amount of \$5 million, to be paid from the Fund.
- A civil penalty, not to exceed \$1,000 per barrel, shall be assessed for any discharge of oil in transit to the Trans-Alaska Pipeline, during transportation through the Trans-Alaska Pipeline, or handling at the terminal facility. The person causing or permitting the discharge and the owner of the oil at the time of the discharge are jointly, severally and, strictly liable for the penalties. This civil penalty will not be assessed if a penalty is assessed under Section 311(b) of the Federal Water Pollution Control Act.

DRAFT AGENDA

ADEC/RCAC/USCG/ALYESKA
"WORKING GROUP"

AUGUST 2ND, 1990
VILLAGE INN CONFERENCE ROOM
VALDEZ, ALASKA
0900 TO 1600 HOURS

- ~~0.~~ Graham Lascelles report on skimming capability
- ~~1.~~ Dave Nielson's report on lightering pump modifications
3. Nick Mitchell's report on training and drills
4. ADEC proposal on skimming
- ~~5.~~ Status report on Tractor tugs
6. Status report on progress with Tankers/Shipping companies
- ~~7.~~ Tim Plummer's report on ballasted barge demonstration
8. USCG report on satellite surveillance
9. Review document of progress to date
10. USCG dispersant and exclusion/sacrificial booming issues

MEMORANDUM

TO M.F.G. WILLIAMS	SUBJECT Report of the 5th meeting between ADEC/USCG/RCAC and Alyeska on the PWS Contingency Plan	
THRU N. MITCHELL		
FROM M. HUTTON <i>MH</i>	DATE 8.16.90	FILE NO.
COPY R. SHOAF		

On Wednesday, August 15th, most members of the working group met for the fifth time in Anchorage at Alyeska. Present were Bill Lamoreaux, Steve Provant, Joe Sautner and Dan Lawn from ADEC; Sheila Gotterher from RCAC; Ed Wieliczkiwicz from USCG; and Nick mitchell, Graham Lascelles, and Mark Hutton from Alyeska.

The attached agenda resulted in a discussion of three issues; (1) how to handle "approval" for the Tanker Spill Prevention and Response Plan for PWS (2) the relationship of that plan to the Tanker/Owners/Operators Plan, including scope and schedule and (3) how our plan addresses the concerns of ADEC.

CONCLUSIONS

1. In August, ADEC will formally "accept" the following:
 - a. The Tanker Spill Prevention and Response Plan for PWS is a "contracted-segment" of the Tanker/Owner/Operators Plan;
 - b. Many of the key provisions in this segment of the Tanker/Owner/Operator's Plan are acceptable, including;
 - *emergency order requirements
 - *ICS
 - *communications
 - *safety
 - *response strategy as defined both in the plan and as presented in the technical working group meetings
 - *the prevention programs
 - *community planning and the fishing boat resources
 - *geographic scope
 - *present equipment adequate for baseline
 - c. Remaining issues are mostly related to the pending implementation of new regulations (HB 567) and have been mutually agreed to be resolved through a continuation of the technical working group process, including;
 - *spill size and preparedness
 - *equipment numbers
 - *performance and planning standards
 - *prevention improvements

d. Other issues, not related to HB 567 that require additional work which have also been mutually agreed to be resolved through a technical working group process, including

- *dispersant application and use
- *oily waste disposal, contaminated debris
- *vendor contracts
- *detection and surveillance
- *other lesser issues.

2. ADEC presented a draft letter to Alyeska (pending review and signature) which contains (1) the results of the first four working group meetings and (2) the essence of the above mentioned agreements. This letter was promised in "a couple of days".
3. ADEC reviewed a letter from Nick Mitchell to Bill Lamoreaux providing Alyeska's answers to 31 comments raised by ADEC in a November 2nd, 1989 letter which addressed the August DRAFT Plan. Their response was generally favorable, pending a more complete review of our response.
4. This procedure was adopted to provide clear guidance and a schedule for the Tanker/Owner/Operators for the preparation and submission of their plans. To that end the ADEC intend to invite the "Owners" to a preliminary meeting Wednesday afternoon August 29th.
5. ADEC expects the Tanker/Owners/Operators Plans to be submitted by October 1st. Unless they have a clear picture of the scope and schedule for those plans they will consider amending the Compliance by Consent Order one more time.

DRAFT AGENDA
5TH TECHNICAL WORKING GROUP MEETING
AUGUST 15TH, 1990
0900 - 1700 HOURS
CROWN ROOM, ALYESKA

OBJECTIVE: TO FULLY EXPLORE AND UNDERSTAND THE PLAN APPROVAL
PROCESS, SCHEDULE, REVIEW GUIDELINES, ISSUES AND POSITIONS

- I. Introductory Remarks
 N. Mitchell
 B. Lamoreaux
- II. Overview of Plan Approval Options and Plan Review
 Guidelines---ADEC
- III. Review of November 2nd, 1989 "31 points" letter
 ---Alyeska
- IV. Relationship between the Alyeska Tanker Spill Prevention
 and Response Plan for PWS and the Tanker/Owner/Operator's
 Plans.
- V. List of issues to be set-aside, pending HB 567
 Rulemaking and June 1991 implementation.
- VI. ^{Equipment}
 X Baseline determinations for approval
- VII. Compliance or Completion Schedules
- VIII. General working group schedule and priorities - for next week
- IX. Dan Loun / Graham Lascelles discussion
 1. multifunction test - but not joining...

MEMORANDUM

TO	M.F.G. WILLIAMS	SUBJECT Report of meetings with Tanker Owners and the Working Group	
THRU	N. MITCHELL	6th Meeting	
FROM	MARK HUTTON	DATE	FILE NO.
COPY	R. SHOAF	8.31.90	

On Tuesday, August 28th, representatives from Alyeska and the Tanker owners/operators/charterers met to discuss (1) the status of affairs with ADEC (2) the status of the PWS Tanker Spill Prevention and Response Plan (PWS Plan) and (3) the relationship of the Tanker owners plan to the PWS Plan. The list of those present is attached.

On Wednesday, August 29th, members of the working groups met in the morning to discuss (1) an ADEC letter outlining their position and requirements for the PWS Plan (2) the relationship of the PWS Plan to the Tanker Owners Plan and (3) a "roundtable" discussion of various issues associated with both plans. The list of those present is attached.

On Wednesday afternoon, the representatives from the Tanker Owners met with the Working Group to discuss (1) the relationship of the shipping companies plans to the PWS Plan (2) the status of state action on the PWS Plan (3) the status and content of the shipping companies plans and (4) schedules. The meeting was chaired by ADEC. A list of those present is attached.

CONCLUSIONS

1. The state said they generally agreed with the scope of the Tanker Owners Plans as presented in broad headings by Roger Gale.
2. All parties seemed to indicate October 1, 1990 was acceptable to submit the individual Tanker Owners Plans.
3. The broad nature of the Alyeska contract with the Tanker Owners seemed acceptable to all present. Most left with the impression that the contract could be signed by October 1st.
4. The assignability of third party vendor contracts between Alyeska and the responsible party is unresolved.
5. "Ownership" of an amendment or a new Compliance Consent Order is pending. The state would prefer Alyeska extend the order; Alyeska is looking to the Tanker Owners to assume responsibility. By October 1, this issue must be resolved to operate tankers in the TAPS trade.

PRINCE WILLIAM SOUND TANKER SPILL PREVENTION AND RESPONSE PLAN
"WORKING GROUP"
DISTRIBUTION LIST

Nick Mitchell
Kate Montgomery
Mark Hutton
Alyeska Pipeline Service Co.
1835 S. Bragaw
Anchorage, Alaska 99512

Larry Shier
Alyeska Pipeline Service Co.
SERVS
Box 109
Valdez, Alaska 99686

Cdr. Ed Thompson
Cdr. Ed Wieliczekiewicz
U.S.C.G.
Marine Safety Office
Box 2324
Valdez, Alaska 99686

Bill Lamoreaux
Steve Provant
Joe Sautner
Alaska Dept of Env.
Conservation
3601 C Street, Suite 1334
Anchorage, Ak 99503

Dan Lawn
ADEC
Drawer 1709
Valdez, Alaska 99686

Sheila Gotterher
Regional Citizens Advisory
Council
601 W. 5th Ave., Suite 500
Anchorage, Alaska 99501

Attached are the notes and relevant documents from the 7th meeting
held 9.6.90

MEMORANDUM

WORKING GROUP See Distribution	SUBJECT Report of 7th ADEC/USCG/RCAC Alyeska "working group"	
FROM M. Hutton (Alyeska) <i>MHA</i> S. Provant (ADEC) <i>SP</i>	DATE 9.11.90	FILE NO.

On Thursday, September 6th, members of the working group met from 0900 hours to 1100 hours at Alyeska. Present were Bill Lamoreaux, Steve Provant and Dan Lawn from ADEC; Sheila Gotterher from the RCAC and Nick Mitchell, Mark Hutton and Kate Montgomery from Alyeska. Absent USCG.

The agenda was approved and attached. In general the following was accomplished:

1. A PROTOCOL for the conduct of the working groups was adopted and is attached.
2. Definition, chairmanship and schedule for all working groups was adopted and is attached.
3. Interim approval, or similar language, for the Tanker Spill Prevention and Response Plan for PWS (PWS Plan) would be linked, where possible, to the work groups and their schedule.
4. ADEC requested Tanker Owners/Operators/Charterers to sign contract with Alyeska to include the PWS Plan as a portion of their Plan, by September 20th.
5. Alyeska proposed not extending the Compliance Consent Order beyond October 1, 1990; rather any extension was proposed to be the responsibility of the Tanker Owners/Operators/Charterers. There was general agreement with the intent, but ADEC could not commit at this time, without further consultation. Members understood the importance of transferring responsibility to the Tanker representatives.
6. The Tanker's schedule is for plan submittal by October 1st, 1990.
7. The complicated nature of vendor contracts was explained both for the PWS Plan and the Tanker's Plans. A report was promised for the September 20th or 21st meeting.
8. ADEC distributed a report - TECHNICAL ANALYSIS OF EXPECTED SKIMMER PERFORMANCE, August 31, 1990 - which formed the basis of both the requirements in the August 29th ADEC letter for baseline equipment and the misunderstandings contained in the letter. A September 5th letter from Alyeska to ADEC was distributed commenting on the letter. Both letters are attached. The report will be discussed at the September 20th or 21st meeting.

) 9. MISCELANEOUS

A. N. Mitchell reviewed a technical Vikoma proposal for "skimmer head" adaptations to lightering pumps. Questions were raised about the depth of the wier and speed.

B. ADEC asked for equipment lists when AFE's are approved.

C. ADEC raised the issue of Coastal Zone Consistency review of the plans.

DRAFT AGENDA

ADEC/RCAC/USCG/ALYESKA
"WORKING GROUP"

0900 HRS

SEPTEMBER 6, 1990
ALYESKA BOARD ROOM
ANCHORAGE

- I. Discussion and recommendations on the subjects (including protocols) to be covered by the working groups and a schedule for completion.
- II. Compliance Consent Order for Tanker Owners/operators/charterers--October 1st deadline
- III. Resolve uncertainties with vendor contracts both for the PWS Plan and the Tanker Owner Plans
- IV. ADEC Technical Proposal on baseline equipment requirements

PARTICIPANTS

ADEC

B. Lamoreaux
S. Provant
J. Sautner
D. Lawn

USCG

E. Thomson
E. Vieleskevich

RCAC

A. Rothe
S. Gotterher
T. Robertson

ALYESKA

N. Mitchell
M. Hutton
G. Lascelles

PROPOSED SCHEDULE FOR WORKING GROUPS

NOTE: These are target dates. Other meetings may be required and/or dates may change to accomodate schedule conflicts.

September 13th (special meeting to present outlines and workplans for working groups)

September 20th or 21st

October 4th

October 18th

November 1st

November 15th

November 29th

December 13th

January 7th, Completion

WORKING GROUPS (CHAIRMANSHIP)

1. Initial Response and Training (ADEC)
2. Prevention/Navigation (Joint)
3. Dispersants (Alyeska)
4. Oily Waste Disposal (Alyeska)
5. Plan Coordination with Tanker's Plans (Joint)
6. Shoreline Plans (RCAC)

NEXT AGENDA TOPICS

- *Presentation of working group outlines and workplans
- *Fishing boat report
- *Contracts
- *ICS/Training
- *ADEC technical report on skimming

analysis
of
skimmer
perf

August 31, 1990

TECHNICAL ANALYSIS OF EXPECTED SKIMMER PERFORMANCE

ADEC has made an analysis of the capability of Alyeska's existing skimming equipment and proposed increases in skimming capacity to perform over a 72 hr period based on the following assumptions:

- The response equipment is being evaluated based on a winter situation under non-freezing conditions. A four months average of daylight occurring during the winter months is used as the amount of daylight available over the 72 hr response period. For Prince William Sound the average is 7 hrs per day. (The shortest day in PWS is 5 hrs long.)
- First skimming unit (two Marflex Arms, 4000 bbl/hr) arrives at scene and is operational within 5 hrs. Downtime for repositioning, one daytime hour per day after day one.
- Second skimming unit (two Transrec, 3600 bbl/hr) arrives at scene and is operational within 7 hrs. Downtime for repositioning, one daytime hour per day after day one.
- Third skimming unit (one weir boom, 3900 bbl/hr) arrives at scene and is operational within 12 hrs. Downtime for repositioning, one daytime hour per day after day one.
- Fourth skimming unit (six Seaskimmer 50 and one Seaskimmer 100 skimmers, 1760 bbl/hr) arrives at scene and is operational within 12 hrs. Downtime for repositioning, one daytime hour per day after day one.
- Skimming efficiency for initial skimmer is 50%.¹ Efficiency decreases as time progresses as shown in Table 1. Night time skimming efficiency is 10%.
- The effect of emulsification is offset by evaporation.²
- No reduction in made for equipment down time due to mechanical breakdown.
- Weather and sea conditions are ideal for conducting skimming operations.
- Spill occurs five hours before daybreak so that first skimming unit arrives and is operational at first light allowing for maximum utilization of available daylight.

1

We have utilized a 50% recovery rate for the first skimming unit based on Alyeska's strategy to get their skimming units to the scene of an incident within 5 hrs. when there would be the best changes for recovery of oil while still fresh and deep on the sea surface. The next skimming unit to arrive would not find as favorable conditions and would have a reduced oil encounter rate so the recovery rate was reduced. The same is true for the other units and the rates were reduced accordingly. Daylight recovery rates for days 2 and 3 would also be less favorable and again the rates were reduced accordingly. We have reduced the skimming efficiency to 10% at night due the problems associated with night time operations.

2

We have made this assumption pending better data. The best data available to us at the present time indicates that the volume of oil would actually increase more due to picking up water (emulsification) than it would decrease due to evaporation.

TABLE 1

CALCULATION OF SKIMMER CAPABILITY

Skimmer 1 (4000 bbl/hr)	Skimmer 2 (3600 bbl/hr)	Skimmer 3 (3900 bbl/hr)	Skimmer 4 (1760 bbl/hr)
Hour	Hour	Hour	Hour
0-5(n) Travel	0-7(n&d) Travel		
5-12(d) @ 50%	7-12(d) @ 40%	0-12(n&d) Travel	0-12 Travel
12-24(n) @ 10%	12-24 @ 10%	12-24 @ 10%	12-24 @ 10%
24-29(n) @ 10%	24-29 @ 10%	24-29 @ 10%	24-29 @ 10%
29-30(d) reposit.	29-30 reposit.	29-30 reposit.	29-30 reposit.
30-36(d) @ 20%	30-36 @ 15%	30-36 @ 10%	30-36 @ 10%
36-43(n) @ 10%	36-43 @ 10%	36-43 @ 10%	36-43 @ 10%
43-48(n) disch.*	43-48 disch.*	43-48 disch.*	43-48 disch.*
48-53(n) disch.*	48-53 disch.*	48-53 disch.*	48-53 disch.*
53-54(d) reposit.	53-54 reposit.	53-54 reposit.	53-54 reposit.
54-72(d&n) @ 10%	54-72 @ 10%	54-72 @ 10%	54-72 @ 10%

The n&d in parenthesis in the Table represent nighttime and daytime hours respectively. This analysis is set up to make maximum use of daylight hours for skimming operations.

* The time until it becomes necessary to discharge and the length of time to complete the discharge is a very crude estimate and we have assumed optimal conditions for adequate quiescent time for oil/water separation allowing water pumped on board the barges to be decanted giving maximum storage space on the barges for oil.

TABLE 2
OIL RECOVERED (BBL)

	Skimmer 1	Skimmer 2	Skimmer 3	Skimmer 4
Day 1	14,000 4,800	7,200 4,320	-0- 4,680	-0- 2,112
Day 2	2,000 4,800 2,800	1,800 3,240 2,520	1,950 5,070	880 2,288
Day 3	<u>7,200</u>	<u>6,480</u>	<u>7,020</u>	<u>3,168</u>
SubTotal	35,600	25,560	18,720	8,448

Total oil recovered: 88,328 bbl/72 hrs

Because of the fact that skimming/pumping capacity can be most effective during the first hours of a spill the state believes it is necessary to deploy as much skimming/pumping capacity as can effectively be brought to bear on the slick. To accomplish this with currently available equipment we evaluated the gains to be achieved by doubling the amount of skimming/pumping equipment arriving at the spill scene on the first and second skimming units. The results of this analysis are given in Table 3.

Table 3

	Skimmer 1 (8000 bbl/hr)	Skimmer 2 (7200 bbl/hr)	Skimmer 3	Skimmer 4
Day 1	28,000 9,600	14,400 8,640	N o	N o
Day 2	4,000 9,600 5,600	3,600 6,480 5,040	C h a n g e	C h a n g e
Day 3	<u>14,400</u>	<u>12,960</u>		
Subtotal	71,200	51,120	18,720	8,448

Total oil recovered in 72 hrs: 149,488 bbl/72hrs

Alyeska has ordered an additional six Seaskimmer 50 skimmers which could increase their capability to recover approximately 156,000 bbl of oil in 72 hrs.

Of course, under favorable weather and sea conditions, in the summer with more daylight hours, Alyeska could operate their equipment more effectively at higher recovery rates and increase the total amount of oil recovered. However, conditions could also prevail such as winds and sea state that would make the equipment less effective and thereby reduce the amount of oil recovered. Eventually, winds and sea state can reach such conditions which will make the recovery equipment totally ineffective and no recovery will occur.

As a result of our analysis it is more evident that the most effective way to increase skimming capability with currently available equipment is by adding equipment to existing skimming platforms. At this point in time we can not give an answer to the question of how much equipment could be effectively utilized and managed during the initial hours of a spill response. We are of the opinion that 25,000 bbl/hr nameplate capacity represents an acceptable base capability. We need to evaluate the effectiveness of adding more conventional equipment to determine at what point this equipment would not provide much gain in effective skimming capacity. Since we may be nearing the upper limit for conventional skimming equipment, we need to pursue with Alyeska the development of a skimming/pumping capability to greatly enhance the recovery capability of the existing skimming platforms. To enhance recovery in adverse wind and sea conditions we need to pursue the development of a large stable, high rate skimming platform.

September 5, 1990

Bill Lamoreaux, P.E.
Regional Supervisor
Alaska Department of Environmental Conservation
3601 C Street, Suite 1334
Anchorage, Alaska 99503

Letter No. 90-7774-G
File No. 7.11.07

RE: August 29th, 1990 letter from Bill Lamoreaux to
Jim Hermiller

Dear Bill:

Since we have talked, I wanted to provide Alyeska's views on your recent letter to Mr. Hermiller.

In the main, we found your letter to be positive, constructive and indicative of our mutual goals to work closely with you, the USCG and the Regional Citizen's Advisory Committee (RCAC) to solve unique and difficult problems. We are responding quickly to your letter however, to clear up possible misunderstandings that might threaten this process and to clarify some details resulting from our joint meeting with the tanker owners.

The first concern we have deals with the philosophical "ground-rules" we believed governed the "working group" process. We respect and expect that your regulatory mission gives you every right to make the final decisions subject to normal due process criteria. We also acknowledge that the "working group" process can only influence those decisions so long as sound, technical and defensible proposals are brought to bear on a particular problem. To that end, one part of your letter seemed inconsistent or confusing.

The conclusion "that 25,000 barrels/hour of nameplate skimming capacity should allow Alyeska, under favorable conditions...to recover about 150,000 barrels in 72 hours" did not seem to stem from our working groups. Our concern is not over the numbers per se but the missing step where a conclusion appears absent any presentation and discussion by the working group. Therefore we can only accept that the statement may have meant for planning purposes that "recovery could be at least 150,000 barrels in 72 hours."

We believe that the assessment of how well the nameplate capacities of the Prince William Sound Plan response effort meet the planning standards described in H.B. 567 should remain with the working group process for further review.

That review should acknowledge that no level of response equipment will ever guarantee complete removal of a catastrophic oil spill on water and that plan approval should be based on the dual priorities of prevention and realistic response planning, in the framework created by the legislation. Alyeska's criteria for response planning is to determine what is the appropriate type of equipment to utilize shortly after a spill to achieve maximum cleanup. As we have demonstrated and agreed with the Department in the working group process, the amount of equipment appropriate to plan for a 300,000 barrel spill is limited by the strategies for using the equipment and the space available to deploy the equipment to respond to the oil on water. In terms of meeting the newly created planning standards, this analysis leads to the conclusion that the 25,000 barrel per hour nameplate capacity and deployment strategies currently under discussion in the working group is appropriate to meet a clean up standards of at least 150,000 barrels in 72 hours.

We, like you, also do not believe that a straight extrapolation from the above formula achieves the planning level for 300,000 barrels in 72 hours. The evolution of response capability in PWS should be based on conclusions drawn from principles, mutually accepted as technically sound and defensible, in the working group process.

That same process has been useful for discussion of spill prevention. In mandating prevention, the legislature gave very little guidance. In Alyeska's view, prevention should attempt to reduce identified risks, such as presented by the Valdez Narrows. The legislature has agreed that reduced response requirements can serve as an incentive for prevention expenditures. We should continue to balance prevention and response planning in the working group discussions. As such, we believe that the significant prevention efforts already in place should be viewed both to allow operation in more adverse weather conditions and as a basis for evaluating potential reductions in the response capability that must be on hand.

I do not wish to dwell on these points, but we have placed a great deal of trust and confidence that our working groups can achieve answers to problems and questions that are unique in all the world. Our devotion to this process must remain high, which requires diligence by all parties.

The other issue concerns the achievements of the meeting with the tanker owners. We understand that you accepted the broad "headings" of what they proposed would be the components of their complete plan. Those being:

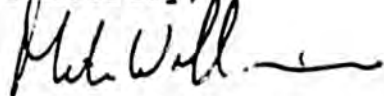
- Shipowner Contract with Alyeska for Initial Response
- PWS Tanker Spill Prevention and Response Plan
- Supplemental Beach Clean-up Procedures
- Lightering Operation Guidelines (OCIMF)
- Shipowner Management Transition Plan
- Shipowner Core Plan and Vessel Specific Information.

The Tanker owners also committed to present their plans to you October 1, 1990, which corresponds to expiration of the last amendment to the Compliance Consent Order. That leaves legal issues on the table that are important to resolve in a timely manner. Accordingly we are scheduled to meet again with you next Thursday, September 6th and should attempt to resolve those issues. We do not believe that Alyeska needs to continue to guarantee response on behalf of vessels through a consent order, but the vessels should commit for themselves to the response the state deems appropriate under the existing circumstances.

We also propose to resolve an outstanding issue dealing with vendor contracts.

The meeting seems a good time to develop the flow chart, mentioned by Nick, that outlines our respective options, a work plan and the schedule to complete these projects. We will come prepared to discuss these issues, and hope to reach a mutual understanding of the points raised in this letter.

Sincerely,



M.F.G. Williams,
Vice President, Environment and Contingency

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

SOUTHCENTRAL REGIONAL OFFICE
3601 "C" STREET, SUITE 1334
ANCHORAGE, AK 99503

(907) 563-6529

August 29, 1990

James Hermiller
Chief Operating Officer
Alyeska Pipeline Service Company
1835 S. Bragaw Street
Anchorage, AK 99503

Dear Mr. Hermiller:

ADEC is continuing the review of the Prince William Sound Tanker Spill Prevention & Response Plan (Alyeska plan) submitted December 31, 1989. Part of that plan includes initial spill response capability and prevention. Additionally, these topics have been the subject of several meetings between Alyeska and ADEC over the past several months. At this time ADEC is prepared to identify what we consider to be a minimally acceptable baseline to satisfy current state law, while keeping in mind the new requirements under H.B. 567, applicable June 1, 1990. This letter is to give notification to Alyeska concerning these portions of Alyeska's plan as to changes necessary to achieve this acceptable baseline. These items are included in detail as an enclosure.

Where deficiencies have been identified, the Department will require that Alyeska modify the plan on a mutually acceptable compliance schedule. In some cases, where approval is dependent on a demonstration of performance by field testing, or the need for further analysis through technical review, the Department will continue to work with Alyeska on an informal basis in technical sessions, to reach agreement. Based on the results of these analyses, Alyeska will be required to provide different or additional equipment, revise strategies or implement operational restrictions to upgrade and improve the prevention, preparedness and initial response capabilities of the plan. The state believes this process will serve to define the level of response needed to meet the requirements of H.B. 567 and will place the Prince William Sound Spill Prevention & Response Plan in the forefront in continuing efforts.

We are also in the process of evaluating the Alyeska plan taking into consideration geography, climate and weather considerations in the sense of both preparedness and prevention; training, drills and field manuals from the standpoint of readiness; and other appropriate Alaska statutes and regulations. A number of the comments in ADEC's letter to you on November 2, 1989 are concerns the Department still has about Alyeska's plan and these concerns will be factored into our review. Alyeska and the Department are well on the way towards resolving a number of these concerns and

August 29, 1990

by continuing to work together through technical task forces, we should be able to reach agreement on these and other concerns as they surface. The department will have these detailed comments to you in the near future.

The department considers the Alyeska plan to be a segment of the overall plan for Prince William Sound, and when approved (as part of the Prince William Sound plan) will fulfill the initial emergency response to an oil spill in Prince William Sound. It is the responsibility of the shipping companies to develop a contingency plan for Prince William Sound which should incorporate the Alyeska plan through a contractual arrangement. An approval decision cannot be reached until the entire contingency plan for Prince William Sound has been submitted. In the interim, the department proposes that the Compliance Order by Consent be revised to reflect the need for an increased level of prevention and preparedness by Alyeska at this point in time, as we work towards meeting the requirements of H.B. 567. Until such time that the state receives and takes action on the overall Prince William Sound contingency plan, Alyeska will be bound by the order, to be responsible for all aspects of a contingency plan capability in Prince William Sound. We will propose to the shipping companies that they agree on a Compliance Order by Consent with the department which will provide for submittal of the Prince William Sound contingency plan incorporating: (1) a contractual arrangement to include the Alyeska plan to provide for preparedness, prevention and initial response; (2) a mechanism for "turn-over" of spill management to the responsible party; and (3) for continued response and long term cleanup.

I also want to update you on the status of the Alaska Coastal Management Program (ACMP) consistency review process. Review packets were sent to other State agencies and affected coastal districts, and public meetings have been held on the Alyeska portion of the overall Prince William Sound contingency plan. We are presently at that point in the ACMP review process schedule where we must develop a proposed consistency determination. However, since the department has not yet received the entire plan for Prince William Sound, any determinations that are made can only be based on one portion of the contingency plan. Therefore, we are reluctant to proceed until the shipping companies plans are available and bring the entire plan into focus. Once the entire contingency plan is available we will consider completing the proposed consistency determination in phases, if we can do so without jeopardizing the process. This would allow us to move forward with an approvable portion of the contingency plan and to finalize our actions so that Alyeska or the shipping companies can begin implementation of any new requirements.

James Hermiller

-3-

August 29, 1990

I am encouraged with the progress we have been making and believe that the process we have been following will continue to help us develop Alyeska's plan into an effective preparedness, prevention and initial response document.

Sincerely yours,


Bill H. Lamoreaux, P. E.
Regional Supervisor

BHL:SP:ep
Enclosure
cc: Fred Garibaldi
B.P.America

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Requirements for Upgrading the Alyeska Prince William Sound
Tanker Spill Prevention & Response Plan

August 29, 1990

This enclosure to ADEC's August 29, 1990 letter to James Hermiller, Chief Operating Officer for Alyeska, is to establish prevention measures and skimming capability requirements in addition to those provided in the Prince William Sound Tanker Spill Prevention & Response Plan at the present time. This capability will establish the baseline from which Alyeska will progress to meet the requirements of HB 567. The State will work with Alyeska to modify the existing Compliance Order by Consent to incorporate into it a timeframe in which these prevention measures and skimming requirements are to be achieved and incorporated into Alyeska's plan.

Since the overall contingency plan for Prince William Sound has not been submitted, the department will not take approval action on the Alyeska portion of the plan. However, the state will give Alyeska direction by indicating the approvable segments of the Alyeska plan and will continue to work with Alyeska to resolve areas where deficiencies exist. The State will initiate approval action upon receipt of the tanker owners' plans which must include a contractual arrangement giving Alyeska responsibility for the preparedness, prevention and initial response portions of the contingency plan. The Terminal Contingency Plan which has just recently become available for review must be coordinated with the Alyeska component of the Prince William Sound plan. At the present time the coordination between the Terminal and PWS plan is inadequate.

Present Skimming Capability

Alyeska presently has a nameplate skimming capability of 16,960 bbl/hr and has made a proposal to the state to provide two additional 2000 bbl/hr capacity each, 4000 bbl/hr total, to increase their capability to approximately 21,000 bbl/hr on five or six major skimming platforms. Alyeska has also agreed to pursue the development of an intake structure for eight existing transfer pumps of 2000 bbl/hr pumping capacity each to provide a total of 16,000 bbl/hr pumping capacity. The pumps will be distributed equally among four response barges to provide 4000 bbl/hr high rate pumping capability per barge. The intent is to increase recovery capability during the very early hours of the spill when these pumps might be effective. This will give Alyeska a total nameplate recovery and high rate pumping capability of approximately 37,000 bbl/hr. Alyeska has proposed to have the equipment deployed so as to have 16,000 bbl/hr capability available in the Sound, 8000 bbl/hr at Port Etches at Hitchinbrook Entrance and 8000 bbl/hr at Naked Island and 21,000 bbl/hr in Port Valdez.

The state is requiring that Alyeska increase the existing nameplate skimming capacity by acquiring the proposed addition of 4000 bbl/hr and, at a minimum, an additional 4000 bbl/hr capacity to give a total amount of equipment to provide 25,000 bbl/hr nameplate skimming capacity. This equipment will be distributed on the skimming platforms so that two platforms will have 8000 bbl/hr skimming capacity and be stationed at Naked Island and Port Valdez. A third platform with 4000 bbl/hr skimming capacity will be stationed at Port Etches. The other skimming units will be located in Valdez. Alyeska must develop a checklist of the actions that will be taken to: (1) have one 8000 bbl/hr skimming unit operating at the scene of an incident within five hours; (2) have either the 4000 bbl/hr skimming unit or the other 8000 bbl/hr skimming unit at the scene and operational within seven hours and; (3) have all other skimming units at the scene and operational within twelve hours.

In addition, Alyeska must undertake the development of a very high capacity pumping system with intake structure which will increase their recovery capability to approximately 41,000 bbl/hr, 25,000 bbl/hr skimming and 16,000 bbl/hr pumping. If such a system does not provide a suitable, high rate oil recovery capability then the existing system must be augmented by currently available skimming equipment. At the same time, other options to develop a very high capacity skimming system in the 30-40,000 bbl/hr range must be pursued by Alyeska.

The acquisition of a nameplate skimming capacity of approximately 25,000 bbl/hr should allow Alyeska, under the most favorable conditions working 24 hrs/day, to recover about 150,000 bbl/ 72 hrs or one-half of the standard set in HB 567. The analysis showing this is available in a technical report.

Additional Skimming Equipment

Subsection K of HB 567 requires that Alyeska maintain, at a minimum, in its region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 300,000 bbl discharge within 72 hours. The State will continue to work with Alyeska to reach a determination of the response capability necessary to achieve the planning standard of H.B. 567 and to determine the variables or conditions that will be applied in making decisions on the amount of additional skimming capability needed beyond the initially required base amount. We want to point out that we do not believe that a straight extrapolation from the

August 29, 1990

150,000 bbl/72 hrs number utilizing existing skimming equipment is adequate to achieve the planning level of 300,000 bbl/72 hrs and in making this determination we will consider the following:

- That only a finite amount of equipment can effectively be deployed in the spill area during the first few hours. If the oil is not contained and substantially cleaned up within the first 24-36 hours, the initial equipment and additional skimming equipment deployed to deal with an increasing spill area will be less and less effective and a point of diminishing returns will be reached.
- That for purposes of this analysis of skimming capabilities we will assume that equipment efficiencies are initially high due to the high encounter rates and we have utilized the best available data to determine the decrease in equipment efficiency as the spill progresses. Also, impacts of weather and nightfall adversely affect the skimming equipment efficiencies which have been factored into our evaluations.
- That beyond a certain maximum, additional, effective recovery capability can only be obtained with a high capacity recovery system available early in the spill that can significantly increase recovery during daylight hours to offset the reduced efficiency of existing equipment due to darkness, adverse weather and time.
- That more accurate factors must be developed to take into account various parameters influencing equipment performance such as available daylight, weather, historical skimming performance, response time, oil recovery strategy, rate of oil volatilization, losses in the water column, oil viscosity, emulsification, the overall thickness of the floating oil and the free water that is recovered in the oil.

Prevention and Prevention Credits

While there would still be a high risk that a spill could occur under conditions whereby the planning standards of HB 567 could not be achieved, the risk of not being able to mount an effective response would be significantly reduced by requiring the high rate skimming capability resulting from the process as described above. We must also consider that the chances of a full power grounding such as happened with the Exxon Valdez has been reduced beyond Valdez Arm in unrestricted areas of Prince William Sound through the establishment of the tanker vessel escort system. Therefore,

in the open areas of Prince William Sound any incident which might occur at this point in time would most likely result in the release of less oil than occurred from the Exxon Valdez. We expect the implementation of additional prevention measures such as a Prince William Sound/Valdez Arm/Valdez Narrows/Port Valdez wind restrictions, tanker vessel tracking system and tractor tug escort in towing harness configuration through Port Valdez, Valdez Narrows and Valdez Arm would almost eliminate the likelihood of a grounding with a major release of oil.

The state will require the establishment of wind restrictions as a prevention measure to control tanker movement (rather than established on ability to operate clean up equipment). Alyeska has implemented the Ship Escort Response Vessel System (SERVS) which has some capability to reduce the risks associated with tanker movement in the wide open spaces of Prince William Sound. Once the escort system is modified to provide similar prevention in the restricted areas, prevention credits will be allowed for tanker movement during those periods of time when clean up would only be marginally effective. The State is allowing this because the likelihood of a major spill would be significantly reduced with the implementation of such a system. As other prevention measures are added at a later time, additional credits (possibly to reduce clean up equipment inventories) will be considered.

Because of the significant gains in prevention to be made by a system to control disabled tankers through Valdez Narrows and Valdez Arm, the State is requiring that Alyeska implement a vessel escort system. This should be implemented as soon as possible in order to allow the immediate control of disabled, laden tankers through the restricted areas of Valdez Narrows and Valdez Arm. The specifications are written for a towing vessel, that if it were attached to the tanker in a stern towing harness, it would have the ability to prevent a grounding. If Alyeska can demonstrate some other mechanism which will accomplish the same degree of control then that system will be evaluated.

PRINCE WILLIAM SOUND TANKER SPILL PREVENTION AND RESPONSE PLAN
"WORKING GROUP"
DISTRIBUTION LIST

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ATTACHED IS A SUMMARY OF THE 8TH MEETING (9.13.90) WHICH HAS NOT YET BEEN INITIALED. ALSO ATTACHED IS A PROPOSED AGENDA FOR THE 9TH MEETING SCHEDULED FRIDAY, SEPTEMBER 21ST AT ALYESKA "CROWN ROOM" (ON THE FIFTH FLOOR). THE MEETING WILL START AT 0830 HOURS.

DRAFT AGENDA

ADEC/RCAC/USCG/ALYESKA
"WORKING GROUP"

0830 HOURS
SEPTEMBER 21ST, 1990
ALYESKA CROWN ROOM
ANCHORAGE

- I. Review ADEC letter to Tanker Owners
- II. Review and approve all changes made to ~~the~~ scope and schedule for the additional working ~~groups~~.
- III. Review the ADEC Technical Analysis of Expected Skimmer Performance Report
- IV. ICS/Training report
Tom Casey
- V. Objectives for equipment
 - 1. performance expectations
 - 2. performance evaluations
 - 3. response time
 - 4. equipment and resources integration
 - 5. new proposals
- VI. Next meeting...October 4th, Valdez

MEMORANDUM

TO WORKING GROUP See distribution	SUBJECT Summary of 8th Working Group Meeting	
FROM Mark Hutton Steve Provant	DATE 9.17.90	FILE NO.

On Thursday, September 13th, most members of the working group met at Alyeska to review and approve objectives and schedules for the remaining working groups. Present were Bill Lamoreaux, Steve Provant and Dan Lawn from ADEC; Sheila Gottcher and Joe Banta from RCAC; and Nick Mitchell, Kate Montgomery and Mark Hutton from Alyeska. Absent was USCG.

GENERAL

There was a general discussion on the extension of the compliance consent order, existing conditional approval of tanker plans and the DRAFT letter from ADEC to Garibaldi. ADEC reported they had every intention to approve (in some form) the Tanker Spill Prevention and Response Plan for PWS by November 1, 1990. That then could form the basis, with the signed contract, for the demise of the compliance consent order.

WORKING GROUPS

1. INITIAL RESPONSE AND TRAINING TECHNICAL WORKING GROUP
(In addition to the proposal)

- Verification and testing to be added to Performance Reaction response time may be tested prior to conditional approval
- Steve Provant will be contact person with lead role
- Membership will include main working group plus SERVS
- Dan Lawn and Graham Lascelles will develop technical information

2. PREVENTION/NAVIGATION
(In addition to the proposal)

- Add prevention aspects of HB 567
- Utilize existing Valdez Marine Operation Committee, presently chaired by Tim Plummer
- Joe Sautner will be the contact person with lead role
- The main working group will develop objectives and raise issues with the Valdez Marine Operation Committee, who will act as the technical advisors to the working group

2. continued
The Valdez Marine Operation Committee may call on,
from time to time, the Valdez Marine Terminal Users
Group for additional help
3. DISPERSANTS/BURNING/BIOREMEDIATION
(In addition to the proposal)

Add other waste issues
replace RRT with EPA representative
4. OILY WASTE DISPOSAL
(In addition to the proposal)

Add EPA to the membership
Add (d.) response times to application techniques and
strategies
Add (5.) stockpile maintenance and inventory rotation
5. PLAN COORDINATION WITH TANKER'S PLANS
(In addition to the proposal)

-Mutually agreed to hold off action until Tanker's
Plans are submitted
Include Valdez Terminal Plan coordination
6. SHORELINE CLEANUP PLANS
(In addition to the proposal)

-membership should include "tanker" plan
representatives
-add "process" definition
delete reference to mosquito fleets

NEXT AGENDA

1. ICS/Training report
2. ADEC Technical Report on Skimming
3. Review working reports and instructions
4. Objectives for equipment

NEXT MEETING -FRIDAY SEPTEMBER 21ST

0830 to 1200 hours at Alyeska

Alyeska Response Plan

Initial Response and Training Technical Working Group

Equipment

Quantity Needed

Barges*

Skimmers*

Stock

Developmental

Fishing Boats*

Tugs and ERVs

Boom

Aerial Support

*Steve P. will
take lead.*

*main working group
plus SERUS*

Dan technique support.

Graham L.

*The skimming taskforces will be determined based on effective deployment plus backup

Performance

Verification & testing.

Review of existing performance data

Equipment performance expectations

Wind and sea state limitations

Fishing boats for boom deployment

Oil water separation on barges

Boom

ERV/Tugs

Other integral components as identified

*performance
expectations*

Performance testing.

Skimmer recovery rate - nameplate/actual (define parameters such as evaporation, emulsification, daylight, temperature, oil viscosity,

Safety

Deployment/Staging

Source — Reaction response time

Skimming/lightering equipment stations

Logistical support

New Equipment Development

High capacity pumps

Large skimming unit

Training and Drills

Frequency /Content/Drill size

Type

ICS

On water

Oil recovery

Computer simulation

Evaluation

Personpower

Goals:

Equipment: Quantity - to determine the amount of equipment that can effectively be managed and deployed during the initial phase of spill response and the most effective combinations and numbers of stock skimming units on skimming platforms.

Performance - to define operational limits of equipment and establish specific performance criteria for equipment types. Establish realistic recovery rates for various conditions.

Training/Drills: Evaluate results of training/drills to determine personnel and equipment reaction times.

Personpower: Establish core response capability, evaluate capability to have first responders at scene of incident.

Alyeska Response Plan
Prevention/Navigation Technical Working Group

Weather limitations

Clean up equipment
Tanker movement

Tug and ERV

Type/Needs
Utilization
Deployment

Surveillance

Vessel tracking
USGS (Arm, Narrows, Port)
Satellite (Sound and Gulf)

Pollution checks

Ship Mooring

Plans and Practices
Pre-arrival Checklists
Pre-deballasting/loading checklists

Ship Inspections

Inert Gas Checks
Segregated Ballast Checks
Fire Fighting Ability

Interaction and Authorities

Pilots Assoc., Tanker owners and SERVS
USGS and ADEC

HB 567.

Items for Other Technical Working Groups

Dispersants

RRT Guidelines
Identification of proper dispersants for PWS
Procedures for keeping stockpiles updated
Installation of spray equipment on ERVs

PWS Plan/Tanker Vessel Plan

PWS, VMT and Tanker Vessel plans interaction

Oily Waste Disposal

Liquid
Solid

THE DISPERSANTS/BURNING/BIOREMEDIATION WORKING GROUP
CHAIRMAN: ALYESKA

MEMBERSHIP

ALYESKA

Sharon Hillman

Dave Nielson

Ben Hilliker

Wayne Fredeen

ADEC

Jic Sautner

Brad Hahn Alco Vitea

USCG

RRT

RCAC

CONSULTANTS

EPA

Carl Lenton

OBJECTIVES

1. Address the ADEC comments:

"Dispersant use, to be covered in the unfinished Annex I, is not adequately covered in the plan. If Alyeska plans to use dispersants in the future, Alyeska should place the necessary volumes of chemicals and application gear in the Valdez or Anchorage response inventories, and continue to maintain a mutual understanding with the Department and the Coast Guard as to approval guidelines, since application must occur almost immediately in order to achieve any degree of success."

2. Review conflicts inherent in on-scene approval vs. RRT approval process.

3. Review application techniques and strategies

- a. vessel application

- b. Plane application

- c. Staging

- d. response times.

4. Review specific dispersant types and quantities.

5. Stock pile maintenance and inventory rotation

SCHEDULE

End of January 1991.

MEMORANDUM

DATE: September 13, 1990

TO: ADEC-ALYESKA-USCG-RCAC WORKING GROUP

FROM: Tim Robertson, RCAC

RE: Goals & Objectives for Near Shore Protection and Skimming & On Shore Clean-up Sub-Group

Greetings! I'm sorry that I can not be at your meeting today. Sheila has ask me to give some thought to the Goals and Objectives of a sub-group to deal with issues related to Shoreline Clean-up. I brought up the issue of RCAC chairing a sub-group at the RCAC meeting on Tuesday this week. The issue was not formally moved, but there did not seem to be any objection. I feel that the idea is workable as long as our role is well defined and does not require a time commitment beyond our abilities.

SCOPE

I feel that this sub-group should deal with all issues in the PWS/OSPR Plan related to Near Shore Protection and Skimming & Shoreline Clean-up both within PWS and along the entire coast affected by the EXXON Valdez spill. Some issues which would fall under the jurisdiction of this sub-group are:

- Shoreline Environmental Sensitivity Surveys
- Hatchery Protection Program
- Community Protection Program
- Near Shore Response (~~Mosquito Fleets~~)
- Sacrificial Beaches
- Shoreline Cleanup Planning
- Shoreline Cleanup Techniques
- Shoreline Cleanup Monitoring

*- which areas
- process
- shades of red + green approach*

OBJECTIVES

The objectives of this sub-group would be to examine issues of the C-Plan which are within the scope of the sub-group and strive to reach a consensus of opinion on the best method to deal with the issue and provide a recommendation to ADEC on an action to take. If a consensus can not be reached then a majority recommendation and minority recommendation should be issued.

GOALS

The Goals of the sub-group should to be:

- 1) Identify specific issues to be looked into and treat each issue as a project.
- 2) Prioritize the projects based on importance to the overall Plan.
- 3) Schedule work on each project with deadlines for a recommendation to ADEC.
- 4) Review existing body of knowledge on each topic.
- 5) Take into account all view points on each issue.
- 6) Issue through written reports using a standardized format and ending with recommendations.

PARTICIPATION

Representation should be included from the RCAC, USCG, EPA, ADEC, ALYESKA, PWS SHIPPERS, and ADF&G at a minimum.

FUNDING

I'd suggest dutch treat.

TIME LINE

The sooner we can get started the better. However I don't believe that we should begin until the ground rules are clearly established in writing and agreed to by all parties. We should expect this process to be on going for a long time. Don't expect overnight results on any issue.

Back to Tanker Owners.

*Make up
master FAX sheet*

THE OILY WASTE DISPOSAL WORKING GROUP
CHAIRMAN: ALYESKA

MEMBERSHIP

ALYESKA

ADEC

ADEC

USCG

~~EPA~~ EPA

RCAC

CONSULTANTS

*Dave Jensen
Jim Sweeney*

Mark Hutton

Sharon Hillman

Jim Sweeny

Dave Jensen

~~Bob Flint~~ *or Hutton*

call Carl Lusterberger

W.C. Lee

*Ron Goddard
George Wilson
Replacement*

*Steve
W.C. Lee*

*Judith Brindahl
Rob Dragunil
Sharla*

OBJECTIVES

1. Address ADEC comment:

"Though still under development, Alyeska's Oily Waste Disposal Plan must include specific approved, permitted arrangements (disposal methods and locations) for storage and disposal of various types of waste."

"Section 303.3 states the success of spill response efforts will depend on prompt decisions by the Department in various aspects of the response. It would be far more useful and appropriate for the plan to state what actions Alyeska's response personnel, particularly management, must undertake to make sure that Alyeska has done everything it can to promote prompt approval of proposed response actions. The burden for meeting the requirements for approval of response actions requiring government approval is on Alyeska. Alyeska could do much to improve response operations (and must) by requiring its responders to fully develop and seek approved permits for waste disposal options and in-situ burning. Developing detailed dispersant use plans for likely spill scenarios, and submitting them to regulatory agencies for conceptual approval prior to a spill, would supplement the efforts that state and federal agencies have made to provide timely response to request made during an actual spill. Such conceptual approval needs to be reestablished on a regular basis. Similar comments apply to the statement about prompt approval of in-situ burning found in sections 502.6, Alyeska should identify those specific items for which it is believed that prompt decision are needed."

1. (continued)

"Alyeska must include capability for removal of contaminated debris. Debris collection and removal is essential to proper operation of surface oil recovery and is also a required elements for cleanup."

2. Resolve the technical issues associated with the new Toxic Characteristics Law:

- a. as they apply to spills
- b. as they apply to crude oil contaminated residue.

3. Review initial requirements vs. longer term requirements

4. Review pre-permitting requirements and options.

5. Review "staging areas" options.

6. *Other waste issues.*

SCHEDULE

End of January 1991.

Liquid strategy
Solid strategy

EXXON

Major preplanning for collection.

Temporary storage is. alternatives

*POSS - (subsiding in northwest
in PWS.)*

PREVENTION/NAVIGATION WORKING GROUP
CHAIRMEN; JOINT

MEMBERSHIP; Recommend using the Valdez Marine Operations
Committee

ALYESKA	Tim Plummer
	Larry Shier
	Nick Mitchell
ADEC	Steve Provant
	Joe Sautner
USCG	Cdr. Thompson
RCAC	Chris Gates
TANKER	
PILOTS	Ed Murphy
OTHER	

OBJECTIVES:

1. Compliance with HB 567; prevention measures and incentives
2. Resolution of outstanding plan issues:
 - a. industry self-police policies
 - b. USCG regulations
 - c. separation of Alyeska and Tanker Owners/Operators/Charterers issues

PWS PLAN COORDINATION WITH TANKER'S PLANS
CHAIRMEN: JOINT

*Hold off at 1.
tell*

MEMBERS

ALYESKA

Nick Mitchell

ADEC

USCG
TANKER
RCAC

OBJECTIVES

1. Examine and make recommendations on transition
2. Examine and make recommendations on shoreline cleanup plan
3. Examine and make recommendations on approval mechanisms

4. *Valley Terminal Plan coordination*

PRINCE WILLIAM SOUND TANKER SPILL PREVENTION AND RESPONSE PLAN
"WORKING GROUP"
DISTRIBUTION LIST

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Capt. Tim Plummer
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Box 300 Valdez, Alaska 99686

Attached is a report from the 9th meeting, held at Alyeska, September 21st, 1990. I have begun calling the group the "working group and steering committee" for the PWS Plan. Please note the next meeting is scheduled for October 11th in Valdez, to be preceeded on the 10th by an on-water task force exercise. Also note, that all working groups should commence work, with progress reports expected at the next meeting.

REPORT OF 9TH MEETING
SEPTEMBER 21, 1990

On Thursday, September 21st, 1990, the PWS Plan "working group and steering committee" met from 0900 hours to 1200 hours at Alyeska. Present were Bill Lamoreaux, Steve Provant and Dan Lawn from ADEC; Sheila Gottehrer, Chris Gates and Joe Banta from the RCAC; and Nick Mitchell, Graham Lascelles, Kate Montgomery, Tim Plummer, Dave Nielson and Mark Hutton from Alyeska. Judith Andress, Tom Casey and Rob Shoaf (Alyeska) gave brief presentations. Absent was USCG.

SUMMARY

"SALVAGE" CORRECTION TO PWS PLAN

Judy Andress (Alyeska Legal Department) discussed a proposed change to the PWS Plan to more accurately explain correct "salvage" information. The December 1989 version of the PWS Plan did not take into account the strict maritime definition of "salvage" and had created confusion among the tanker owners. A letter to ADEC was promised correcting two paragraphs in section 200. A letter and the proposed changed language was given to the working group and will also be sent to the tanker owners.

HOUSTON/ICS/EXXON

Nick Mitchell discussed the recent trip to Houston to meet with Exxon to begin ICS training. Alyeska took it's ICS overhead team to Houston to begin training Exxon. The tentative dates for the next exercise in Valdez was announced: November 12-14 for BP. Exxon had asked for Mitchell and Casey to return to Houston for more training.

VALDEZ MARINE OPERATION COMMITTEE

Tim Plummer announced October 3rd would be the next meeting of the Valdez Marine Operations Committee in Valdez. He also mentioned the formation of the PWS Tankers Association.

TANKER OWNERS INVITATION

There was general agreement that the tanker "owners" would be contacted and invited to all working group meetings.

INSURANCE/P&I CLUBS

There was a lengthy and inconclusive discussion about insurance problems with the tankers and the position of the P and I Clubs (Protection and Indemnity). Graham Lascelles reported the clubs were still of the opinion Alyeska had gone "over the top" (i.e. too much equipment and too many guarantees) with a response program, although they seemed to understand the plan better now.

ADEC TECHNICAL ANALYSIS OF EXPECTED SKIMMER PERFORMANCE REPORT

Most of the remaining discussion combined the review of this report with the objectives of the assigned working group. It is difficult to summarize the review of this report, except to paraphrase Graham Lascelles who, in the main, found the report accurate considering the assumptions of daylight and weather, which if changed would have changed the conclusions.

As in the past, the discussion quickly became far reaching; a tribute to the magnitude of the central question, namely how to establish a planning standard to clean up 300,000 barrels of oil in 72 hours. Through the divergent conversations an approach seemed to materialize, capturing key thoughts from Dave Nielson, Graham Lascelles and Dan Lawn. These are summarized as follows:

1. How do we maximize the performance of each piece of equipment in the "baseline" inventory of 25,000 barrels per hour of skimming capacity? In the field, most felt this question was more critical to a successful oil spill response than a planning formula for HB 567.
2. Identify the limitations of each piece of equipment and the impacts on performance.

3. Establish a "base-case" set (or range) of variables to report on the likely performance standards for equipment. Look to a statistical display of certain environmental factors, such that operating or performance standards can be linked to the factors that are present during a high percentage of the time. An example might be the daylight hours, wind speed and direction, and wave characteristics that are present 80 percent of the year.
4. ADEC will present what parameters will be selected and why. Mode, rather than average, could be considered as a characterization of the most likely day to be encountered rather than the average daily conditions.
5. Accurate determinations on viscosity, evaporation and emulsification are needed.
6. Consideration of a range of performance standards would account for the variability of environmental factors.
7. SERVS weather data needs to be put into computer form for evaluation and utilization in the weather variables project. Dave Nielson was asked to implement this project.
8. The technical working group on initial response and training met on September 21st and will meet again in Valdez on September 28th to work on the items mentioned above.

TANKER CONTRACT WITH ALYESKA

Rob Shoaf (Alyeska Legal Dept.) announced the schedule for final revisions to the contract. He indicated the contract would be signed in October but not by October 1st. He sought clarification about what legal document and title would be referenced in the contract. General clarification was then requested about "which document constituted the PWS Tanker Spill Prevention and Response Plan. Most believed it was the three volume set submitted December 31st, 1989 and supplemented January 31st, 1990 with one series of ADEC requested editorial corrections.

Rob went on to say that changes to the document would be handled as amendments to the contract, in so far as they changed the basic document referenced in the contract.

IMPLEMENTATION DOCUMENT

Nick Mitchell suggested Alyeska prepare a short "implementation document" outlining the status of the hatchery protection projects, the community response center projects, equipment purchases and installation, and training.

ICS

Tom Casey presented the basic ICS schedule for Alyeska. Urged agency attendance at all training sessions and promised a calendar of events.

OTHER WORKING GROUPS

All other working groups must begin work, as per the scope and schedule agreements presented and modified at the last meeting. Group chairmen must be prepared to report progress at the next meeting.

NEXT MEETING

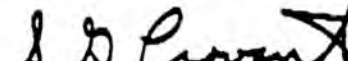
October 11, 1990 in Valdez. On October 10th, a task force exercise is scheduled using fishing boats, a barge and major skimmer and SERVS personnel. The agenda for the meeting will focus on reports from the working groups.

Meeting adjourned at noon.

REPORT SUBMITTED BY



Mark I. Hutton



Steve Provant

PRINCE WILLIAM SOUND CONTINGENCY PLAN--STEERING COMMITTEE

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Tanker Owners and Operators
in the TAPS Trade.
See distribution page

ATTACHED IS THE RECORD OF THE 10TH MEETING, HELD IN VALDEZ ON OCTOBER 11TH, 1990. ALSO ATTACHED, IS THE LETTER ALYESKA WAS DIRECTED TO SEND TO THE "TANKER OWNERS AND OPERATORS IN THE TAPS TRADE" (1) FORMALLY INVITING THEM TO JOIN THE STEERING COMMITTEE, (2) ASKING THEM FOR THE MAILING LIST OF INDIVIDUALS TO RECEIVE INFORMATION, AND (3) PROVIDING THEM A BRIEF HISTORY AND EXPLANATION OF THE STEERING COMMITTEE. THIS INFORMATION WILL ALSO BE SENT TO THE PRINCE WILLIAM SOUND TANKER ASSOCIATION.

October 23, 1990

SERVS TANKER CONTACTS

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90802-4321

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H. Cutter
[REDACTED]
G. Jones
R. Shoaf
R. Stoltenberg

Alyeska pipeline

SERVICE COMPANY

1835 SOUTH BRAGAW STREET, ANCHORAGE, ALASKA 99512 TELEPHONE (907) 278-1611 TELEX 090-25-127

October 22, 1990

To: Tanker Owners and Operators
in the TAPS Trade

Re: Information on the Prince William Sound Contingency
Plan Steering Committee

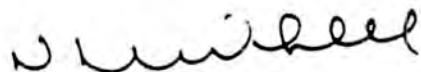
The attached report is to bring the above referenced subject matter to your attention. Please note your invitation to designate a representative that can be contacted to participate on the Steering Committee or on any of the technical working groups... or just to receive all reports.

After November 1, with the signing of the "contract" and the demise of the Alyeska/ADEC compliance consent order, responsibility shifts to the tanker owners/operators/ charterers to achieve a working relationship with ADEC; a relationship, which is now led to the conditional approval of your plans.

Alyeska will continue to be involved, as the initial conditional approval and the subsequent required technical working groups and Steering Committee are tied directly to the PWS Tanker Spill Prevention and Response Plan portion of your Contingency Plans.

If you have questions, please contact me at (907) 265-8875 or Mark Hutton at (907) 265-8879.

Sincerely,
ALYESKA PIPELINE SERVICE COMPANY



Nick Mitchell
Manager,
Oil Spill & Contingency Planning

MH/eam
Attachment

xc: J. B. Hermiller
M.F.G. Williams
L. D. Shier
T. F. Plummer
R. I. Shoaf
M. Croce, PWS Tankers Asso.
B. Lamoreaux, ADEC
S. Gotterher, RCAC
E. Thompson, USCG

THE "PRINCE WILLIAM SOUND CONTINGENCY PLAN -
STEERING COMMITTEE"

General Background Information

On Thursday, October 11, 1990, we had our tenth meeting in Valdez, of what used to be called the Prince William Sound Tanker Spill Prevention and Response Plan Steering Committee. (The official title is now the Prince William Sound Contingency Plan - Steering Committee). The purpose of the meeting was:

- to transform, officially, that group into a "Steering Committee" that will guide the work of newly formed technical working groups;
- to receive the first reports from the technical working groups;
- to officially hand over the chairmanship from Alyeska to ADEC;
- to consider the role of tanker owners/operators charterers on the Steering Committee and the technical working groups; and
- to discuss the tenants of conditional an/or interim approval.

The purpose of this report is to bring the above to your attention and to provide you a status report. We also need to resolve who in your company should be involved at the Steering Committee level and who should be involved at the technical working group level? The technical working groups for the Prince William Sound Tanker Spill Prevention and Response Plan portion of your plan have been established as follows:

- Initial Response Equipment,
- Navigation/Prevention,
- Oil Waste Disposal,
- Dispersants, In-situ Burning, Bioremediation,
- Shoreline Plans, and
- Coordination with Tanker's Contingency Plan(s)

The PWS Tanker Association Chairman and Vice Chairman, Captains M. A. Croce and R. Johnston, have attended one technical working group meeting dealing with navigation and prevention issues.

Early on, the concept of a "working group" was established to look at some very hard problems and questions for which there were no easy answers. These problems and questions ranged from "how to contain and cleanup a 300,000 barrel spill in 72 hours", to "the need to address oily waste disposal". To date, this process has worked as we have had good agency, Alyeska and citizen's cooperation, participation and commitment to a group solution. We have come to agreement on a number of significant issues.

This has worked so well, we have formalized the process; a turn of events that finds us using this "round table" approach to achieve conditional approval of the plans for PWS. It is in some respects an education process, where regulators, the regulated and RCAC work through issues in a non-regulatory environment.

Now that we (collectively) anticipate conditional approval it is time to make sure that tanker owner/operator /charterer representative understands the process and feels comfortable with a role that is probably not totally defined.

It would be presumptuous to tell you what your role is and yet it is important that we overstate the need to have you at the table.

(participation)

The Valdez Marine Operations Committee, first established by Captain Tim Plummer (Alyeska Marine Terminal, Marine Manager), has answered the call to use that committee as the technical working group on all prevention and navigation issues. It is certainly the right mix and match of players, including the Tanker Association. We assume you feel comfortable with that representation.

We will transmit directly to each tanker owner/operator /charterer representative, all of the pertinent historical reports and correspondence, especially the navigation and prevention projects. Accordingly the report of the Valdez, October 11 Steering Committee Meeting is attached. Under separate cover we will compile and send a packet of information, containing the historical documents.

We need to know the individual you designate to be on this list. We are sending a copy of this report to the Prince William Sound Tanker Association and intend to provide them this same background information.

**PWS CONTINGENCY PLAN
STEERING COMMITTEE MEETING
OCTOBER 11, 1990
WESTMARK INN, VALDEZ**

The Prince William Sound Contingency Plan Steering Committee held its 10th meeting in Valdez on October 11, 1990 from 0830 through 1730 hours. In attendance at the meeting were:

Bill Lamoreaux, Chairman,	Steve Provant,	Dan Lawn	ADEC
Nick Mitchell,	Mark Hutton,	Graham Lascelles,	
Tim Plummer			Alyeska
Tim Robertson,	Wayne Coleman		RACA
CDR Ed Thompson,	CDR Ed Wielickiewicz		Coast Guard
Charles Lundfelt			City of Valdez
Roger Gale			BP Shipping
Myron Fedak			Exxon Shipping
Richard Halluska,	Chaim Barash		OMI Corp.

GENERAL DISCUSSION

This was the first meeting of the Steering Committee to include active participation with representatives from the shipping companies with tankers calling on the Valdez Marine Terminal. For the benefit of the new participants, the meeting opened with a discussion on the purpose of the Steering Committee and how the decisions and areas of agreement will relate to the development, refinement and implementation of the PWS Contingency Plan.

This meeting also is the starting point for establishing the PWS Contingency Plan Steering Committee as a policy oriented group with technical working groups reporting to it.

The following points were discussed:

- The Steering Committee had agreed to an operating protocol. All committee members need to be aware of its contents and agree to operate within the scope outlined by the protocol (attached).
- The Steering Committee will be as flexible as possible in order to keep the committee and the actions dealing with the PWS Contingency Plan a dynamic process.
- The Steering Committee has established six technical working groups that are responsible for evaluating various issues that must be resolved in the course of arriving at a fully approvable contingency plan. These groups will report to and make recommendations

for consideration by the Steering Committee.

- The steering committee/technical working groups process offers a unique opportunity for the regulator to work out issues with the regulated community in a non-regulatory atmosphere.
- Alyeska was directed to contact each company that submitted a contingency plan on October 1, 1990 and invite them to send a representative to Steering Committee meetings. A mailing list with the correct contact person was requested.
- Navigation/Prevention issues will be addressed by the Steering Committee through a working group and the solutions or direction will be coordinated with regulation development under H.B. 567. The PWS Tankers Assoc. are represented on this technical working group.

ADEC agreed to distribute meeting agendas to all tanker owners, operators, and charterers operating at VMT via FAX at least 72 hours prior to meetings in order for the tanker owners to make travel arrangements if topics of specific interest to them are being considered. Alyeska will put together a list of contacts with the individual tanker owners and send them a description of the steering Committee process and explain the relationship between the tanker owners, operator or charterers and the PWS Tanker Owners Assoc. involvement on the Steering Committee.

CONDITIONAL APPROVAL

The conditional approval process was discussed in some detail. ADEC is planning to issue letters of conditional approval or of disapproval to each tanker owner by November 1, 1990. Conditional approval will be contingent upon the submittal of all the various contingency plan components as has been previously discussed which includes an executed contract between the individual tanker owners, operators or charterers and Alyeska and contracts an oil shipping company with their charterers concerning contingency planning. The conditions of approval are still being drafted by ADEC, however they will focus on the preparedness, prevention and initial response capabilities of the PWS Tanker Spill Prevention & Response Plan. After conditional approval has been granted, ADEC will review the other portions of the contingency plans and work with each tanker owner, operator or charterer on an individual basis and through the PWS Contingency Plan Steering Committee to resolve the initial approval conditions and to take a final action on each plan. The time frame in which to accomplish this has not yet been determined but will probably be in the neighborhood of 6-7 months.

It was suggested that a contract briefing document be prepared in

layman terms to explain the relationship between Alyeska and any tanker owner, operator or charterer responsible for an oil spill. There was some concern raised about the role of ADEC in deciding when a management turn-over could occur. ADEC agrees that by identifying those key items that could adversely impact a turn-over and that by establishing measures or relationships to deal with them will make the management transition occur smoothly, which is ADEC's primary concern. ADEC recognizes the obligation that the spiller has to take over management of the incident as the "responsible party" and ADEC has the obligation in the transition management process to prevent a loss of momentum in the response action.

It was recognized by Alyeska and the tanker owners that service contract assignability from Alyeska to the responsible party has not been resolved and issues exist that need to be addressed.

TECHNICAL WORKING GROUP REPORTS

Regarding the functioning of all the technical working groups, it was agreed that they will all follow the method laid out by Tim Robertson for the Shoreline Cleanup working group and develop objectives, scopes of work, problems/issues definition and identification of options available that have bearing on the problem.

The reports for all the technical working groups are attached.

Navigation/Prevention

The navigation/prevention issues had been taken on by a standing committee to consider Valdez Marine Operations. However, it was agreed that the functions of the Valdez Marine Operations Committee should be solely to deal with the contingency plan and that any longer term issues should be handled by a Coast Guard Port Safety Committee. Concern was also expressed about the state imposing navigational requirements as contingency plan conditions. The state recognizes that in most cases navigation/prevention issues are complex and involve jurisdiction of other organizations. The state sees its role primarily as one of promoting reasonable measures within the framework of existing authorities.

Oil shipping industry representatives made a point that procedures, checklists and rules need to be consistent from port to port in order to minimize the chances for confusion to occur.

Mechanical Response Equipment and Drills

This working group is the former Initial Response and Training working group. It was felt that this name better reflected the scope of this group. The scope of work for this group also includes the consideration and evaluation of new concepts

such as a high capacity/high volume pumping or skimming system.

A report was given by Nick Mitchell on information he had obtained from Arco on the "Big Gulp" concept. Arco has decided not to pursue development of a skimming tanker for a number of technical reasons among which are: the 42' draft of the vessel would limit its nearshore usefulness as it would have to be close to the release site to be most effective; it must skim at about 2 kts. and at that speed would only skim about 1200-1300 bbl/hr.; the tanker would be difficult to maneuver at low speeds; building a new tanker with capability to perform is apparently not an option, since Arco was considering using the tanker to haul oil and a new bottom would have to be double hulled.

Alveska Plan Coordination with PWS Contingency Plan

Most of the issues of this working group were dealt with in previous discussions. This group will be primarily interested in the conditional/final approval process and the integration of the results from this process into the rulemaking taking place to implement H.B. 567. Nick Mitchell suggested this topic be a permanent agenda item as the results of this rulemaking must be coordinated with the efforts of the Steering Committee.

Shoreline Cleanup

This working group has developed a process for dealing with issues that will be followed by the other groups. They are presently trying to decide on the scope of their activities and are looking at shoreline cleanup activities in two areas, near shore protection (short term) and an "Exxon" type cleanup (long term). It was also decided that the concept of utilizing shorelines to "trap oil" is viable and we should refer to these shorelines as impact shorelines or beaches.

Dispersants/In-situ Burning/Bioremediation

This working group met for the first time October 9th. To properly define the problem, the group felt it important to make a complete review of the dispersant and burning information contained in the last plan submittal, since a number of the group members had not previously had an opportunity to review this material. This review could then form the basis for making an adequacy test evaluating available tools, the initial response strategy and existing on hand capabilities to utilize dispersants and burning as part of an overall strategy.

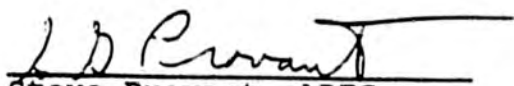
Oily Waste Disposal

The oily waste disposal working group met for the first time

on October 9th. The problem definition focused on three areas: permit options, new federal toxicity characteristic leaching procedure (TCLP) requirements, and a review of the material contained in the last plan submittal.

Submitted by:


Mark Hutton, Alyeska


Steve Provant, ADEC

MCS 42 91-038

A. R. Kukla
Production Manager
Alaska Region
Domestic Production

T 91-012
MCS



**Marathon
Oil Company**

P.O. Box 190168
Anchorage, Alaska 99519
Telephone 907/561-5311

January 23, 1991

Mr. John Sandor, Commissioner
Department of Environmental Conservation
P. O. Box 0
Juneau, AK 99811

Dear Commissioner Sandor:

RE: CISPRI Letter Dated January 16, 1991

Marathon Oil Company, Alaska Region, respectfully requests an extension for submitting Oil Spill Contingency Plans to meet the requirements of HB 567. The extension requested would be for the contingency plans to be submitted within 90 days after the date of final enactment of the State Regulations regarding Oil Spill Contingency Plans.

Marathon is a member of CISPRI and is in concurrence with the Background, Problem, and Proposed Solution as outlined in the referenced letter to you. We are also in the process of revising our existing plans in order to comply with the current time constraints and ensure compatibility with the CISPRI, Regional, and State plan. Our concern is that all the plans be in compliance with the intent of the forthcoming regulations. Not knowing what the contingency plan regulations will require in terms of content and format presents a dilemma in the contingency plan development.

An extension as outlined above will greatly enhance the contingency planning process. Additionally, it would reduce the possibility of substantial revisions subsequent to the review process, further delaying an effective response plan for all concerned.

I offer Marathon's assistance in expediting or improving the contingency plan development process in any way my staff or I can contribute. Please do not hesitate to call or have any of your staff call me at (907) 561-5311.

Sincerely,

A. R. Kukla
Alaska Region Production Manager

\ENV\149/BFC:mmk

cc: B. A. Cox
B. F. Collver
W. Watson

RECEIVED

FEB 16 1991

Dept of
Environmental Conservation

**COOK INLET SPILL PREVENTION
& RESPONSE INC.**

(4/6)

January 16, 1990

Mr. John Sandor
Department of Environmental Conservation
P. O. Box "O"
Juneau, AK 99811

Dear Mr. Sandor:

On behalf of the Cook Inlet Spill Prevention and Response, Inc. (CISPRI) Board of Directors, I respectfully request an extension for submitting contingency plans (C-plan) to meet the requirements set forth in HB567. The extension requested would be for the C-plan to be submitted within 90 days after the date of final enactment of the state regulations regarding Oil Spill Contingency Plans.

Background

CISPRI is making excellent progress on the development of our draft C-plan which we believe will set the standard for the State of Alaska and the nation as a whole. CISPRI has contracted with ENSR, an Alaskan Environmental corporation with extensive experience with approved C-plans within the state. In addition, Alaska Clean Seas (ACS) and the state owned Alaskan Railroad have also contracted with ENSR for the development of their C-plans. Last week, CISPRI, ACS and a representative from the Alaska Railroad met with Mr. Bob Britch of ENSR. At that meeting all parties reviewed and agreed upon the content and format of our individual C-plans. Both CISPRI's and ACS's C-plans will then become the basis of the individual member companies' facilities specific C-plans.

CISPRI and ACS have C-plan committees which include state agency representatives. These committees have been instrumental in setting the content and format of our developing C-plans. All parties involved believe this approach will assure a detailed, concise, uniform C-plan format throughout the State of Alaska. It will ensure a quality response under our individual C-plans should one be necessary. It will ensure a uniform response under the Incident Command System since all of the major oil companies operating within Alaska will be covered by these plans.

We believe this approach will meet the intent of the law which is to ensure an adequate response should one become necessary.

The Problem

CISPRI is aware that the state is currently working on draft regulation covering C-plan content and format. We also understand that these regulations will not be published in the draft form until February 1991. From that date we expect that it will be several months until the draft could be considered "final". To meet the current state criteria, C-plans must be submitted 65 days prior to the June 1, 1991 deadline. This timing means that CISPRI members' C-plans must be submitted prior to the C-plan regulations becoming final. This creates a real dilemma and does not insure a C-plan which meets the criteria of the state, and will involve additional expense and unnecessary delays.

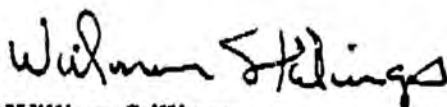
Our Proposed Solution

Once the final C-plan regulations are adopted by your department, companies should be allowed 90 days to submit their C-plans. We also would like to meet with your staff involved in developing the C-plan regulations to present our approach in C-plan development. We feel that we meet the letter and intent of the law. I believe that our C-plan will be an effective response tool, easily updated and expanded as new equipment, techniques and resources become available.

I look forward to your reply and offer CISPRI's assistance in expediting or improving this C-plan development process in any way my staff, or I can contribute. Please feel free to call or have any of your staff call if I can be of assistance. I can be reached at (907) 283-5129.

Sincerely,

COOK INLET SPILL PREVENTION & RESPONSE, INC.



William Stillings
General Manager

WIS:vja



**WILDLIFE
FEDERATION
OF ALASKA**

The Alaska Affiliate of the
National Wildlife Federation

February 20, 1991

John Sandor, Commissioner
Alaska Department of Environmental Conservation
P.O. Box 0
Juneau, Alaska 99811-1800

Dear Mr. Sandor:

As the representative for the environmental group sector of the Department's HB 567 working group, I would like to express to you our concerns regarding review of the draft response regulations. We believe that those regulations, which have already been released informally to the public, comprise an adequate public review draft and should be treated as such.

We see no reason to delay the formal public review of the draft response regulations. Indeed, to do so would be contrary to their enabling legislation, i.e., HB 567 requires that response regulations be enacted by ADEC by June 1, 1991. If the formal public review were to start immediately, the Department could comply with the mandated deadline.

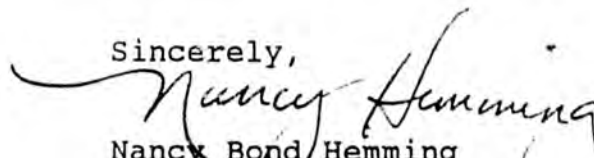
There appears to be no argument or necessity, legal or otherwise, to delay review of the response regulations until, as has been suggested, the prevention and financial responsibility regulations are in draft form. On the contrary, the response regulations are an important tool for the Department in protecting lands and waters of this State from degradation from oil and petroleum product pollution. Promulgation of the response regulations would allow both the industry and the public to know the basis upon which ADEC will review contingency plans for compliance with HB 567. Delaying the response regulations would only delay use of that important tool and would continue to expose our lands and waters to unacceptable risks.

We also believe that, within the time available, the working group would be hard-pressed to adequately consider both the response regulations and the prevention regulations. The original intent of the working group was to offer advice and guidance only on the issues to be covered by the

prevention regulations and to aid the Department in their formulation. We would like to confine the group to the original goal; injecting review of the response regulations would only dilute the process. It is our contention that the response regulations have been developed beyond the point where a working group review would be needed. Public review is the next logical step.

We are looking forward to working with you and the Department on the HB 567 prevention regulations working group.

Sincerely,



Nancy Bond Hemming
Wildlife Federation of Alaska
Alaska Center for the Environment

cc: Jeff Parker, President, Wildlife Federation of Alaska
Sue Libenson, Director, Alaska Center for the Environment
Pam Brodie, Sierra Club, Alaska Field Office
Pam Miller, Greenpeace USA, Alaska Field Office
Members, HB 567 Working Group
Sam Cotten, Chairman, Senate Oil and Gas Committee
Lloyd Jones, Chairman, Senate Resources Committee
Bill Hudson, Chairman, House Oil and Gas Committee
Cliff Davidson, Chairman, House Resources Committee

**Regional Citizens' Advisory Council
601 West Fifth Avenue, Suite 500
Anchorage, AK 99501
277-7222 (FAX) 277-4523**

February 22, 1991

John Sandor, Commissioner
Alaska Department Environmental Conservation
P.O. Box O
Juneau, AK 99811-1800

Dear Commissioner Sandor:

This letter is to express the concerns of the Regional Citizens' Advisory Council regarding your department's decision to delay the promulgation of oil spill contingency plan and financial responsibility regulations pursuant to HB567. We feel the regulations drafted by your department should be released for formal public review at this time so that the promulgation process can be completed by the legislative deadline of June 1, 1991.

Our council was formed to enable citizens of the region affected by the *Exxon Valdez* oil spill to be involved in decisions regarding the operation of the Trans Alaska Pipeline Terminal and crude oil tankers served by the terminal. Our council's mission is to ensure the safe operation of the terminal and the tankers served by the terminal so that environmental impacts associated with terminal and tanker fleet are minimized. To this end, we have worked hard to see that laws and regulations related to oil spill prevention and response are improved.

Last year we participated in the formation of HB567 by testifying before each legislative committee which held hearings on the bill. We worked closely with the legislators, oil industry representatives, and other groups concerned with protecting Alaska's resources from future oil spills. The process of developing HB567 was long and difficult, involving compromise among all the interested parties, and the bill was passed just prior to adjournment.

of the legislature. Upon signing the bill, Governor Cowper remarked about the importance of HB567 for protection of the State's environment.

We have reviewed and commented on the Prince William Sound Tanker Spill Prevention and Response Plan developed by Alyeska in 1989. We are active participants in the steering committee and working groups which are dealing with issues related to DEC approval of this contingency plan. The single greatest impediment to final approval of the Alyeska C-Plan has been the lack of regulations promulgated pursuant to HB567.

Your staff has worked very hard in drafting contingency plan and financial responsibility regulations to implement the law. We have had an opportunity to review their draft contingency plan regulations that were released informally and feel these draft regulations are complete and ready for formal public review.

Our council believes that strong regulations requiring realistic, effective oil spill contingency plans are long overdue. We are not opposed to the production and transportation of crude oil from Alaska. We simply want to see it done in a manner that protects the other natural resources upon which we depend for our subsistence, recreation, and livelihoods. In the past, the oil industry has made promises through contingency plans they couldn't carry out and the Department of Environmental Conservation hasn't held the industry to their promises, in part because of the lack of strong regulations. We've expressed our concerns to the industry and they funded our council so that our voice could be heard and we could participate in the process. We expressed these concerns to the legislature and they passed HB567. We are now expressing our concern to you that holding these regulations up is further delaying the goal we are working so hard to achieve.

We see no improvements which can be made by delaying the promulgation of these regulations. We only see opportunity for weakening them through further compromise, contrary to legislative intent. We also see that your proposed time line for promulgation ensures that these regulations will be released for public review during July and August when most Alaskans are far too busy to give them the attention they deserve. Therefore, we are asking you not to delay the publication of the contingency plan and financial responsibility regulations for public review. We believe you should

release them now, and in doing so, can realistically expect to get these regulations promulgated by the legislative deadline of June 1, 1991.

Sincerely,

Tim Robertson SKG

Tim Robertson

Vice President for Oil Spill Prevention and Response
Regional Citizens' Advisory Council

cc: Members, Regional Citizens' Advisory Council
Jim Hermiller, President, Alyeska
Sen. Sam Cotton, Chairman, Senate Oil & Gas Committee
Sen. Lloyd Jones, Chairman, Senate Resources Committee
Rep. Bill Hudson, Chairman, House Oil & Gas Committee
Rep. Cliff Davidson, Chairman, House Resources Committee
Mead Treadwell, Deputy Commissioner, ADEC
Members, HB 567 Working Group

PUBLIC OPINION MESSAGE

DEAR: SENATOR COTTEN

NAME: WILLIAM J. PHILLIPS

TITLE:

ADDRESS: BOX 1994

CITY: KENAI

ZIP: 99611

PHONE: 283-4873

BILL NO:

SUBJECT: OPENING OF ANWAR

MESSAGE: IF YOU WANT THE NEAR TERM OPENING OF ANWAR, THEN TREADWELL HAS TO GO. HICKEL CAN HAVE TREADWELL OR CREDIBILITY BUT NOT BOTH. SECRET GIVING OF DEC SPILL REGULATIONS THROUGH ALYESKA WILL BE USED BY EVERY NATIONAL ENVIRONMENTAL GROUP TO PROVE TO CONGRESS THAT ALASKA WON'T PROTECT THE ENVIRONMENT.

POMID: 13162723

DATE: 91/02/04

TIME: 16:27:23

LIONAME: SOLDOTNA LIO

COPIES: REPRESENTATIVES REPRESENTATIVES SENATORS

BAKER	BARNES	ADAMS
BOYER	BROWN	COLLINS
BRUCKMAN	CARNEY	DUNCAN
CHOQUETTE	DAVIDSON	ELIASON
B.DAVIS	C.DAVIS	FAHRENKAMP
DONLEY	ELLIS	FISCHER
FINKELSTEIN	FOSTER	FRANK
GONZALES	GRUENBERG	HALFORD
GRUSSENDORF	HANLEY	HOFFMAN
HUDSON	IVAN	JONES
JACKO	KOPONEN	KERTTULA
KUBINA	LARSON	MENARD
LEMAN	LINCOLN	PEARCE
MACKIE	MACLEAN	POURCHOT
MARTIN	M.A.MILLER	RODEY
M.W.MILLER	MOYER	SHULTZ
NAVARRE	PARNELL	STURGULEWSKI
G.PHILLIPS	R.PHILLIPS	UEHLING
SHARP	TAYLOR	ZHAROFF
ULMER	ZANACKI	

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AN ACT

Relating to oil discharge prevention and contingency plan requirements, financial responsibility requirements related to oil, penalties, and inspection authority of the Department of Environmental Conservation; relating to the oil and hazardous substance release response fund and responses to oil and hazardous substance emergencies; authorizing the Department of Environmental Conservation and municipalities to enter into agreements pertaining to vessel traffic control and monitoring systems; and providing for an effective date.

* Section 1. AS 29.35.020 is amended by adding a new subsection to read:

(d) A municipality may enter into agreements with the United States Coast Guard, the United States Environmental Protection Agency, and other persons relating to development and enforcement of vessel traffic control and monitoring systems for oil barges and tank vessels carrying oil operating in or near the waters of the state.

29.35.020(d)

* Sec. 2. AS 46.03.759(c) is amended to read:

(c) Subject to the \$500,000,000 maximum set under (a) of this section the court shall assess four times the penalty set out in (a) of this section if the court finds

46.03.759(c)

that the discharge was caused by the gross negligence or

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intentional act of the defendant;

(2) the defendant did not take reasonable measures to contain and clean up the discharged oil; or

(3) the defendant did not act or respond in accordance with an approved oil discharge prevention and contingency plan.

* Sec. 3. AS 46.03.823(a) is amended to read:

46.03.823(a)

(a) A person who is a response action contractor with respect to a release or threatened release of a hazardous substance whose acts or omissions are not contrary to a response plan or order by a state or federal agency having jurisdiction over the release or threatened release is not civilly liable for injuries, costs, damages, expenses or other liability that results from the release or threatened release unless the release or threatened release is caused by an act or omission of the response action contractor that is negligent or negligent or constitutes intentional misconduct. To show negligence of a response action contractor, a claimant must show that the acts or omissions of the contractor under the response action contract were not in accordance with generally accepted professional standards or practices at the time the response action services were performed.

* Sec. 4. AS 46.03.823(b) is amended to read:

46.03.823(b)

(b) The liability limitation under (a) of this section

(1) does not apply to a response action contractor who would otherwise be liable for the release or threatened release under state or federal law even if that person had not carried out a response action with respect to the release or threatened release; and

(2) does apply only to releases for which notification to the department was provided and received in the manner prescribed under state law (STRICTLY LIABLE UNDER THIS SECTION).

* Sec. 5. AS 46.03.823(e) is amended to read:

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(e) This section does not affect the liability of a response action contractor that may arise from the response action contractor's failure to comply with the terms or conditions of a

(1) response action contract or a remedial action plan if one has been approved by the department; or

(2) contingency plan approved by the department where the response action contractor is the plan holder.

* Sec. 6. AS 46.03.823(g)(2) is amended to read:

(2) "response action contract" means a written contract or agreement to provide response action with respect to a release or threatened release of a hazardous substance, entered into by a person with

(A) the department; OR

(B) another person who has entered into an agreement with the department that provides for response action subject to the department's oversight and control;

(C) a federal agency with jurisdiction over the release or threatened release; or

(D) another person potentially liable for the release or threatened release under state or federal law;

* Sec. 7. AS 46.03.823(g)(3) is amended to read:

(3) "response action contractor" means

(A) a person who enters into a response action contract with respect to a release or threatened release of a hazardous substance and who is carrying out the contract, including a cooperative organization formed to maintain and supply response equipment and materials that enters into a response action contract relating to a release or threatened release; and

(B) a person who is retained or hired by and is under

46.03.823(e)

46.03.823(g)
(2)46.03.823(g)
(3)

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the control of a person described in (A) of this paragraph to provide services related to the response action contract.

* Sec. 8. AS 46.04.020(e) is amended to read:

46.04.020(e)

(e) The department shall enter into negotiations for memoranda of understanding or cooperative agreements with the United States Coast Guard, the United States Environmental Protection Agency, and other persons in order to

(1) facilitate coordinated and effective oil discharge prevention and response in the state, including agreements relating to development and enforcement of vessel traffic control and monitoring systems for tank vessels and oil barges operating in or near the waters of the state;

(2) provide for cooperative review of oil discharge prevention and contingency plans submitted to the department under AS 46.04.030;

(3) provide for cooperative inspections of oil terminal facilities by the department and the United States Coast Guard or United States Environmental Protection Agency; and

(4) provide for cooperative oil discharge notification procedures.

* Sec. 9. AS 46.04.030 is amended to read:

46.04.030

Sec. 46.04.030. OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS

(a) A person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge prevention and contingency plan for the facility has been approved by the department and the person is in compliance with the plan. THE DEPARTMENT IS THE ONLY STATE AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY PLAN FOR THE PURPOSES OF THIS SECTION.

(b) A [AFTER JANUARY 1, 1981], A person may not cause or permit

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the operation of a pipeline or an [OFFSHORE] exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan.

(c) Except as provided in (n) of this section, a (A) person may not operate a tank vessel or an oil barge within the waters of the state, or cause or permit the transfer of oil to or from a tank vessel or [i.e. OR, AFTER JANUARY 1, 1981, TO OR FROM] an oil barge, unless an oil discharge prevention and contingency plan for the tank vessel or oil barge has been approved by the department and the person is in compliance with the plan [EXCEPT FOR PROSECUTIONS UNDER AS 46.03.-190(b), IT IS NOT A DEFENSE TO AN ACTION BROUGHT FOR VIOLATION OF THIS SUBSECTION THAT THE PERSON CHARGED BELIEVED THAT A CURRENT OIL DISCHARGE CONTINGENCY PLAN FOR THE TANK VESSEL OR OIL BARGE HAD BEEN APPROVED BY THE DEPARTMENT].

(d) Upon approval of a contingency plan, the department shall issue to the plan holder a certificate stating that the contingency plan has been approved by the department. The certificate must include the name of the facility, pipeline, tank vessel, or oil barge for which it is issued, the effective date of the contingency plan, and the date by which the contingency plan must be submitted for renewal. A [AN OIL DISCHARGE] contingency plan must be submitted for renewal [RENEWED AT LEAST] every three years.

(e) The department may attach reasonable terms and conditions to its approval or modification of a [AN OIL DISCHARGE] contingency plan that the department [WHICH IT] determines are necessary to ensure [ENSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan has access to sufficient resources to protect environmentally sensitive areas and to contain, clean up, and mitigate potential oil

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discharges from the facility or vessel as provided in (k) of this section, and to ensure that the applicant complies with the contingency plan (WITHIN THE SHORTEST FEASIBLE TIME). The (OIL DISCHARGE) contingency plan must provide for the use (OF THE BEST AVAILABLE TECHNOLOGY) by the applicant of the best technology that was available at the time the contingency plan was submitted or renewed. The department may require an applicant or holder of an approved contingency plan to take steps necessary to demonstrate its ability to carry out the contingency plan, including

- (1) periodic training;
- (2) response team exercises; and
- (3) verifying access to inventories of (AVAILABLE) equipment, supplies, and personnel identified as available in the approved contingency plan.

(f) Upon request of a plan holder or on the department's own initiative, the (THE) department, after notice and opportunity for hearing, may modify its approval of a (AN OIL DISCHARGE) contingency plan if the department (IT) determines that a change has occurred in the operation of a facility (, MARINA) or vessel necessitating an amended or supplemented plan, or the operator's discharge experience demonstrates a necessity for modification. The department, after notice and opportunity for hearing, may revoke its approval of a (AN OIL DISCHARGE) contingency plan if the department (IT) determines that

- (1) approval was obtained by fraud or misrepresentation;
- (2) the operator does not have access to the quality or quantity of resources identified in the plan; (OR)
- (3) a term or condition of approval or modification has been violated; or
- (4) the person is not in compliance with the contingency

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plan and the deficiency materially affects the plan holder's response capability.

(g) Failure of a holder of an approved or modified [OIL DISCHARGE] contingency plan to comply with the plan, or to have access to the quality or quantity of resources identified in the plan or [AND, IN THE EVENT OF A SPILL,] to respond with those resources within the shortest possible [FEASIBLE] time in the event of a spill is a violation of this chapter for purposes of AS 46.03.760(a), 46.03.765, 46.03.790, and any other applicable law. If the holder of an approved or modified [OIL DISCHARGE] contingency plan fails to respond to and conduct cleanup operations of an unpermitted discharge of crude oil with the quality and quantity of resources identified in the plan and in a manner required under the plan, the holder is strictly liable, jointly and severally, for the civil penalty assessed under AS 46.03.758, 46.03.759, or 46.03.760 against any other person for that discharge.

* Sec. 10. AS 46.04.030 is amended by adding new subsections to read:

(h) The department is the only state agency that has the power to approve, modify, or revoke a contingency plan for the purposes of this section. The department shall exercise its power under this section in a timely manner. Except for prosecutions under AS 46.03.790(b) and except as provided in (i) of this section, it is not a defense to an action brought for a violation of (a) - (c) of this section that the person charged believed that a current contingency plan had been approved by the department.

(i) It is a defense to an action brought for a violation of (a) - (c) of this section that the person charged relied on a certificate of approval issued by the department under (d) of this section unless the person knew or had reason to know at the time of the

46.04.030
(h)--(q)

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alleged violation that approval of the plan had been revoked or that the holder of the plan was not capable of carrying out the plan.

(j) Before the department approves or modifies a contingency plan under this section, the department shall provide a copy of the contingency plan to the Department of Fish and Game and to the Department of Natural Resources for their review. The department shall by regulation establish the procedures and time limits applicable to agency review of contingency plans.

(k) Except as provided in (m) and (o) of this section, the holder of an approved contingency plan required under this section shall maintain, or have available under contract, in its region of operation or in another region of operation approved by the department, singly or in conjunction with other operators, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and resources to meet the following response planning standards:

(1) for a discharge from an oil terminal facility, the plan holder shall plan to be able to contain or control, and clean up a discharge equal to the capacity of the largest oil storage tank at the facility within 72 hours, except that if the department determines that the facility is located in an area of high risk because of natural or man-made conditions outside of the facility, it may increase the volume requirement under this paragraph so that the contingency plan must be designed for a response that is greater in amount than the capacity of the largest oil storage tank at the facility;

(2) for a discharge from an exploration or production facility or a pipeline, the plan holder shall plan to be able to contain or control, and clean up the realistic maximum oil discharge within 72 hours;

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(3) for a discharge of crude oil from a tank vessel or oil barge, the plan holder shall plan to be able to contain or control, and clean up a realistic maximum oil discharge as provided in (A), (B), and (C) of this paragraph:

(A) for tank vessels and oil barges having a cargo volume of less than 500,000 barrels, the plan holder shall maintain at a minimum in the region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 50,000 barrel discharge within 72 hours;

(B) for tank vessels and oil barges having a cargo volume of 500,000 barrels or more, the plan holder shall maintain at a minimum in its region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 300,000 barrel discharge within 72 hours;

(C) in addition to the minimum equipment, personnel, and other resources required to be maintained within the region of operation by (A) or (B) of this paragraph, a plan holder shall maintain, either within or outside of the plan holder's region of operation, additional equipment, personnel, and other resources sufficient to contain or control, and clean up a realistic maximum discharge within the shortest possible time; the plan holder must demonstrate that the equipment, personnel, and other resources maintained outside the plan holder's region of operation are accessible to the plan holder and will be deployed and operating at the discharge site within 72 hours;

(4) for a discharge from a tank vessel or oil barge carrying noncrude oil in bulk as cargo, the plan holder shall plan to be able to contain or control 15 percent of the maximum capacity of the vessel or barge or the realistic maximum oil discharge, whichever is

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greater, within 48 hours and clean up the discharge within the shortest possible time consistent with minimizing damage to the environment:

(5) for a discharge subject to the provisions of (1) - (3) of this subsection that enters a receiving environment other than open water, the time requirement for clean up of the portion of the discharge that enters the receiving environment may, in the department's discretion, be within the shortest possible time consistent with minimizing damage to the environment.

(1) The provisions of (k) of this section do not constitute cleanup standards that must be met by the holder of a contingency plan. Notwithstanding (k) of this section, failure to remove a discharge within the time periods set out in (k) of this section does not constitute failure to comply with a contingency plan for purposes of (g) of this section or for the purpose of imposing administrative, civil, or criminal penalties under any other law.

(m) When considering whether to approve or modify a contingency plan, the department may consider evidence that oil discharge prevention measures such as double hulls or double bottoms on vessels or barges, secondary containment systems, hydrostatic testing, enhanced vessel traffic systems, or enhanced crew or staffing levels have been implemented, and, in its discretion, may make exceptions to the requirements of (k) of this section to reflect the reduced risk of oil discharges from the facility, pipeline, vessel, or barge for which the plan is submitted or being modified.

(n) A tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations is exempt from the requirements of (c) of this section if the tank vessel or oil barge has received prior approval of the department. The department

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may approve exemptions under this subsection upon application and presentation of information required by the department.

(c) A holder of an approved contingency plan does not violate the terms of the contingency plan by furnishing to another plan holder, with the approval of the department, equipment, materials, or personnel to assist the other plan holder in a response to an oil discharge. The plan holder shall replace or return the transferred equipment, materials, and personnel as soon as feasible. The department shall by regulation determine the maximum amount of equipment, materials, or personnel and the maximum amount of time for which it will approve a transfer.

(p) The department shall approve or disapprove a proposed contingency plan within 65 days after it receives a complete application for approval under this section.

(q) In this section,

(1) "contingency plan" means an oil discharge prevention and contingency plan required under this section;

(2) "in compliance with the plan" means, with respect to a contingency plan, to

(A) establish and carry out procedures identified in the plan as being the responsibility of the holder of the plan;

(B) have access to and have on hand the quantity and quality of equipment, personnel, and other resources identified as being accessible or on hand in the plan;

(C) fulfill the assurances espoused in the plan in the manner described in the plan;

(D) comply with terms and conditions attached to the plan by the department under the authority of (e) of this section; and

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(E) successfully demonstrate the ability to carry out the plan when required by the department under (e) of this section;

(3) "realistic maximum oil discharge" means the maximum and most damaging oil discharge that the department estimates could occur during the lifetime of the tank vessel, oil barge, facility, or pipeline based on the size, location, and capacity of the tank vessel, oil barge, facility, or pipeline; on the department's knowledge and experience with the tank vessel, oil barge, facility, or pipeline or with similar tank vessels, oil barges, facilities, or pipelines; and on the department's analysis of possible mishaps to the tank vessel or oil barge or at the facility or pipeline or to similar tank vessels or oil barges or at similar facilities or pipelines;

(4) "region of operation," with respect to the holder of a contingency plan, means the area where the operations of the holder that require a contingency plan are located, the boundaries of which correspond to the regional boundaries established by the commissioner for regional master planning purposes under AS 46.04.210.

* Sec. 11. AS 46.04.040(a) is amended to read:

46.04.040(a)

(a) A person may not cause or permit the operation of an oil terminal facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages. Proof of financial responsibility required for a crude oil terminal is \$50,000,000 per incident. Proof of financial responsibility required for a noncrude oil terminal is \$25, per incident, for each barrel of total noncrude oil storage capacity at the terminal or (WHICH HAS BEEN ACCEPTED BY THE DEPARTMENT) ABILITY TO RESPOND IN DAMAGES NEED NOT EXCEED \$50,000,000 BUT MUST BE IN AN AMOUNT (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH BARREL OF STORAGE

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CAPACITY AT THE OIL TERMINAL FACILITY: OR (2) \$1,000,000, whichever is greater, subject to a maximum of \$50,000,000. For purposes of this subsection, an oil terminal facility that stores both crude oil and noncrude oil is subject to the financial responsibility requirements applicable to the type of facility that corresponds to the type of oil storage that predominates at the facility. However, if the facility stores more noncrude oil than crude oil, the \$25 per incident, per barrel requirement of this subsection applies to each barrel of oil storage capacity at the facility.

* Sec. 12. AS 46.04.040(b) is amended to read:

(b) A [AFTER JULY 1, 1981, A] person may not cause or permit the operation of a pipeline or an [OFFSHORE] exploration or production facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of financial responsibility required for a pipeline or an offshore exploration or production facility is \$50,000,000 [MAY NOT BE LESS THAN \$35,000,000] per incident. Proof of financial responsibility required for an onshore production facility is \$20,000,000 per incident. Proof of financial responsibility required for an onshore exploration facility is \$5,000,000 per incident.

* Sec. 13. AS 46.04.040(c) is amended to read:

(c) Except as provided in (m) of this section, a [A] person may not operate a tank vessel or an oil barge within the waters of the state, or cause or permit the transfer of oil to or from a tank vessel [.] or [.] AFTER JANUARY 1, 1981, TO OR FROM] an oil barge, unless the person operating the tank vessel or oil barge has furnished to the department, and the department has approved, proof of financial ability to respond in damages. Proof of financial responsibility required

46.04.040(b)

46.04.040(c)

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under this subsection is

(1) \$300, per incident, for each barrel of storage capacity or \$100,000,000, whichever is greater, for a tank vessel or barge carrying crude oil;

(2) \$100, per incident, for each barrel of storage capacity or \$1,000,000, whichever is greater, subject to a maximum of \$15,000,000, for a tank vessel or barge carrying noncrude oil (RESPONSIBILITY FOR THE TANK VESSEL OR BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBILITY UNDER THIS SUBSECTION SHALL BE IN THE FOLLOWING AMOUNTS:

(1) FOR A TANK VESSEL OR OIL BARGE INVOLVED IN THE TRANSPORTATION OF TRANS-ALASKA PIPELINE OIL, THE AMOUNT REQUIRED BY THE FEDERAL MARITIME COMMISSION UNDER 43 U.S.C. 1653(c)(3) (SEC. 204(c)(3), TRANS-ALASKA PIPELINE AUTHORIZATION ACT);

(2) FOR ANY OTHER OIL BARGE, THE AMOUNT REQUIRED BY SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$1,000,000, WHICHEVER IS GREATER;

(3) FOR ANY OTHER TANK VESSELS, THE AMOUNT REQUIRED BY SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$20,000,000, WHICHEVER IS GREATER).

* Sec. 14. AS 46.04.040(d) is amended to read:

46.04.040(d)

(d) Except for prosecutions under AS 46.03.190(b) and except as provided in (k) of this section, it is not a defense to an action brought for violation of (a) - (c) of this section that the person charged believed in good faith that proof of financial ability to respond in damages had been furnished to, and approved by, the department (THE VESSEL OPERATOR POSSESSED PROOF OF FINANCIAL RESPONSIBILITY ACCEPTED BY THE DEPARTMENT)

* Sec. 15. AS 46.04.040(e) is amended to read:

46.04.040(e)

(e) Financial responsibility may be demonstrated by (1) self-SEC CSRB 567(FLn)

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insurance, (2) insurance, (3) surety, (4) [OR] guarantee, (5) letter of credit approved by the department, or (6) other proof of financial responsibility approved by the department, including proof of financial responsibility provided by a group of insureds who have agreed to cover pollution risks of members of the group under terms the department may prescribe. An action brought under AS 46.03.758, 46.03.759, 46.03.760(a) or (e), 46.03.822, or AS 46.04.030(g) [OR TO COLLECT PENALTIES IMPOSED UNDER AS 46.03.759] may be brought in a state court directly against the insurer, the group, or another person providing evidence of financial responsibility. The applicant, and an insurer, surety, [OR] guarantor, person furnishing an approved letter of credit, or other group or person providing proof of financial responsibility approved by the department shall appoint an agent for service of process in the state. For purposes of this subsection, an (AN, insurer, other than a group of insureds whose agreement has been approved by the department, must either be authorized by the Department of Commerce and Economic Development to sell insurance in the state or be an unauthorized insurer listed by the Department of Commerce and Economic Development as not disapproved for use in the state.

* Sec. 16. AS 46.04.040(f) is amended to read:

(f) Acceptance of proof of financial responsibility expires

(1) one year from its issuance for self-insurance;

(2) on the effective date of a change in the surety bond, guarantee, [OR] insurance agreement, letter of credit, or other proof of financial responsibility; or

(3) on the expiration or cancellation of the surety bond, guarantee, [OR] insurance agreement, letter of credit, or other proof of financial responsibility.

46.04.040(f)

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* Sec. 17. AS 46.04.040(g) is amended to read:

46.04.040(g)

(g) The person whose proof of financial responsibility is accepted by the department under this section shall notify the department at least 30 days before the effective date of a change, expiration or cancellation in the surety bond, guarantee, (OR) insurance agreement, letter of credit, or other proof of financial responsibility. Application for renewal of acceptance of proof of financial responsibility under this section must be filed at least 30 days before the date of expiration.

* Sec. 18. AS 46.04.040 is amended by adding new subsections to read:

46.04.040
(j)--(m)

(j) Upon acceptance and approval of proof of financial responsibility under this section, the department shall issue to the applicant a certificate stating that the state's financial responsibility requirements have been satisfied. The certificate must include the name of the facility, pipeline, tank vessel, or oil barge for which it is issued and the expiration date of the certificate.

(k) It is a defense to an action brought for violation of (a) - (c) of this section that the person charged relied on a certificate of approval issued under (j) of this section unless the person knew or had reason to know at the time of the alleged violation that the approval had been revoked or was expired.

(l) Notwithstanding the requirements of (e) of this section, the applicant may provide evidence of financial responsibility provided by an insurer or other person who does not agree to be subject to direct action in state courts or to appoint an agent for service of process if

(1) the department is satisfied that the insurance or other form of financial responsibility covers judgments under the statutes listed in (e) of this section;

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(2) the applicant provides proof of \$50,000,000, or the amount required by (a) - (c) of this section, whichever is less, in insurance or other form of financial responsibility that meets the requirements of (e) of this section; and

(3) the applicant provides a sworn statement or affidavit that insurance or other form of financial responsibility that meets the requirements of (e) of this section is not available in greater amounts.

(m) A tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations is exempt from the requirements of (c) of this section if the tank vessel or oil barge has received prior approval of the department. The department may approve an exemption under this subsection upon application and presentation of information required by the department.

Sec. 19. AS 46.04 is amended by adding a new section to read:

Sec. 46.04.045. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The dollar amounts in AS 46.04.040 change, as provided in this section, according to and to the extent of changes in the Consumer Price Index for all urban consumers for the Anchorage metropolitan area compiled by the Bureau of Labor Statistics, United States Department of Labor (the index). The index for January of the year in which this section becomes effective is the reference base index.

(b) The dollar amounts change on October 1 of each third year according to the percentage change between the index for January of that year and the most recent index used to determine whether to change the dollar amounts. After calculation of the new amounts, the resulting amounts shall be rounded to the nearest cent.

(c) If the index is revised, the percentage of change is calculated on the basis of the revised index. If a revision of the index

46.04.045

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changes the reference base index, a revised reference base index is determined by multiplying the reference base index applicable by the rebasing factor furnished by the United States Bureau of Labor Statistics. If the index is superseded, the index referred to in this section is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for Alaskan consumers.

(d) The department shall adopt a regulation announcing

(1) on or before June 30 of each third year, the changes in dollar amounts required by (b) of this section; and

(2) promptly after the changes occur, changes in the index required by (c) of this section, including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(e) The department shall also provide notification of a change in dollar amounts required under (b) of this section to the clerks of court in each judicial district of the state.

* Sec. 20. AS 46.04.050 is amended to read:

Sec. 46.04.050. EXEMPTIONS. The provisions of [BECAUSE OF THE RESTRICTED NATURE OF THE OPERATIONS AND THE MINIMAL DANGER TO THE ENVIRONMENT POSED BY THE ACTIVITIES.] AS 46.04.030, 46.04.040, and 46.04.060 do not apply to an oil terminal facility that has an effective storage capacity of less than 5,000 [10,000] barrels of crude oil or less than 10,000 barrels of noncrude oil.

* Sec. 21. AS 46.04.060 is amended to read:

Sec. 46.04.060. INSPECTIONS. In addition to other rights of access or inspection conferred upon the department by law or otherwise, the department may at reasonable times and in a safe manner

46.04.050

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enter and inspect oil (OIL) terminal facilities, pipelines, (OFFSHORE) exploration and production facilities, tank vessels, and oil barges in order (ARE SUBJECT TO INSPECTION BY THE DEPARTMENT) to

(1) ensure compliance with the provisions of this chapter;

or

(2) participate in an examination of the structural integrity and the operating and mechanical systems of those vessels, barges, pipelines, and facilities by federal and state agencies with jurisdiction.

* Sec. 22. AS 46.04.060 is amended by adding a new subsection to read:

(b) When the department determines that no federal or state agencies with jurisdiction are performing timely and adequate inspections of an oil terminal facility, pipeline, exploration or production facility, tank vessel, or oil barge, it may perform its own inspection of the structural integrity and operating and mechanical systems of a facility, pipeline, tank vessel, or oil barge by using personnel with qualifications in the areas being inspected.

46.04.060(b)

* Sec. 23. AS 46.04.200 is amended to read:

Sec. 46.04.200. STATE MASTER PLAN. (a) The department shall prepare and annually review and revise a statewide master oil and hazardous substance discharge (AND) prevention and contingency plan.

46.04.200

(b) The state master plan prepared under this section must

(1) take into consideration the elements of an oil discharge prevention and contingency plan approved or submitted for approval under AS 46.04.030;

(2) clarify and specify the respective responsibilities of each of the following in the assessment, containment, and cleanup of a catastrophic oil discharge or of a significant discharge of a hazardous substance into the environment of the state:

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(A) agencies of the state;

(B) municipalities of the state;

(C) appropriate federal agencies;

(D) operators of facilities;

(E) private parties whose land and other property may be affected by the oil or hazardous substance discharge; and

(F) other parties identified by the commissioner as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance discharge.

(3) specify the respective responsibilities of parties identified in (2) of this subsection in an emergency response; and

(4) identify actions necessary to reduce the likelihood of catastrophic oil discharges and significant discharges of hazardous substances.

(c) In preparing and annually reviewing the state master plan the commissioner shall

(1) consult with municipal and community officials, and with representatives of affected regional organizations;

(2) submit the draft plan to the public for review and comment;

(3) submit to the legislature for review, not later than the 10th day following the convening of each regular session, the plan and any annual revision of the plan; and

(4) require or schedule unannounced oil spill drills to test the sufficiency of an oil discharge prevention and contingency plan approved under AS 46.04.030 or of the cleanup plans of a party identified under (b)(2) of this section.

* Sec. 24. AS 46.04.210(a) is amended to read:

46.04.210(a)

(a) For any region of the state, the boundaries of which are SCS CSHB 567(Fin)

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determined by the commissioner by regulation, in which the department is required to review and approve an oil discharge prevention and contingency plan submitted by a person under AS 46.04.030, the department shall prepare and annually review and revise a regional master oil and hazardous substance discharge (AND) prevention and contingency plan.

* Sec. 25. AS 46.04.900(8) is amended to read:

(8) "[OFFSHORE] exploration [OR PRODUCTION] facility" means a platform, vessel, or other facility used to explore for [OR PRODUCE] hydrocarbons in or on the waters of the state or in or on land in the state; the term does not include platforms or vessels used for stratigraphic drilling or other operations that [WHICH] are not authorized or intended to drill to a producing formation;

46.04.900(8)

* Sec. 26. AS 46.04.900(15) is amended to read:

(15) "tank vessel" means a self-propelled waterborne vessel that is constructed or converted to carry liquid bulk cargo in tanks and includes tankers, tankships, and combination carriers when carrying oil; the term does not include vessels carrying oil in drums, barrels, or other packages, or vessels carrying oil as fuel or stores for that vessel;

46.04.900
(15)

* Sec. 27. AS 46.04.900 is amended by adding new paragraphs to read:

(18) "pipeline" means the facilities, including piping, compressors, pump stations, and storage tanks, used to transport crude oil and associated hydrocarbons between production facilities or from one or more production facilities to marine vessels;

46.04.900
(18), (19)

(19) "production facility" means a drilling rig, drill site, flow station, gathering center, pump station, storage tank, well, and related appurtenances on other facilities to produce, gather, clean, dehydrate, condition, or store crude oil and associated hydrocarbons

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in or on the water of the state or on land in the state, and gathering and flow lines used to transport crude oil and associated hydrocarbons to the inlet of a pipeline system for delivery to a marine facility, refinery, or other production facility.

* Sec. 28. AS 46.08.040 is amended to read:

46.08.040

Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use money from the fund to

(1) investigate and evaluate the release or threatened release of oil or a hazardous substance, and contain, clean up, and take other necessary action, such as monitoring and assessing, to address a release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or welfare, or to the environment;

(2) pay all costs incurred

(A) to establish and maintain the oil and hazardous substance response office and for the expenses of the oil and hazardous substance response corps and the oil and hazardous substance response depots established by that office;

(B) to review oil discharge prevention and contingency plans submitted under AS 46.04.030;

(C) to conduct training, response exercises, inspections, and tests, in order to verify equipment inventories and ability to prevent and respond to oil and hazardous substance release emergencies, and to undertake other activities intended to verify or establish the preparedness of the state, a municipality, or a party required by AS 46.04.030 to have an approved contingency plan to act in accordance with that plan; and

(D) to verify or establish proof of financial responsibility required by AS 46.04.040;

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(3) provide matching funds for participation in federal oil discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980); (AND)

(4) recover the costs to the state or to a municipality of a containment and cleanup resulting from the release or the threatened release of oil or a hazardous substance; (.)

(5) prepare, review, and revise

(A) the state's master oil and hazardous substance discharge (AND) prevention and contingency plan required by AS 46.04.200; and

(B) a regional master oil and hazardous substance discharge (AND) prevention and contingency plan required by AS 46.04.210; and

(6) restore the environment by addressing the effects of an oil or hazardous substance release.

* Sec. 29. AS 46.08.060(a) is amended to read:

(a) The commissioner shall submit a report to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the commissioner but must include:

(1) the amount of money expended under AS 46.08.040 during the preceding fiscal year;

(2) the amount and source of money received and money recovered during the preceding fiscal year as specified in AS 46.08.020;

(3) a summary of municipal participation in responses funded by the fund;

(4) a detailed summary of department activities in

46.08.060(a)

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responses funded by the fund during the preceding fiscal year, including response descriptions and statements outlining the nature of the threat; in this paragraph, "detailed" includes information describing each personal services position and total compensation for that position, each contract in excess of \$20,000, and each purchase in excess of \$10,000; and

(5) the projected cost for the next fiscal year of monitoring, operating, and maintaining sites where response has been completed or is expected to be continued during the fiscal year.

* Sec. 30. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By January 31, 1992, the Department of Environmental Conservation shall survey, inspect, and prepare an inventory of noncrude oil terminal facilities in the state with an effective storage capacity of 5,000 to 10,000 barrels in order to determine for each facility

- (1) its actual storage capacity;
- (2) the type of noncrude oil products stored;
- (3) its age, design, construction, and general condition;
- (4) the design and construction standards applicable or relevant;
- (5) the presence or absence of containment structures and equipment;
- (6) its ability to respond to a release or threatened release;
- (7) the environmental sensitivity of the surrounding area and the potential risk to the environment if a release occurs;
- (8) the presence or absence of surface and subsurface pipelines and storage tanks; and
- (9) other appropriate information.

(b) By January 31, 1992, the Department of Environmental Conservation shall report to the Legislature the results of the survey required under SCS CSHB 567(Fin)

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(a) of this section and its written recommendations concerning discharge prevention and contingency requirements or design review requirements that should be enacted for noncrude oil terminal facilities with storage capacities of less than 10,000 barrels.

(c) Upon completion of the survey required under (a) of this section, the Department of Environmental Conservation may

- (1) notify each facility of the results of the facility's inspections; and
- (2) provide each facility with recommendations and technical assistance concerning identified deficiencies.

(d) The Department of Environmental Conservation may conduct the inspections required under this section notwithstanding the provisions of AS 46.04.050. The department shall conduct the inspections at reasonable times.

* Sec. 31. STUDY RELATING TO NONCRUDE OIL TANKERS AND BARGES. By July 1, 1991, the Department of Environmental Conservation shall conduct a study and report to the legislature its recommendations concerning the following issues related to oil discharge prevention and contingency planning for tank vessels and oil barges carrying noncrude oil in bulk as cargo:

- (1) appropriate locations for regional response depots, based on an assessment of historical evidence of where noncrude oil discharges are most likely to occur and the needs of remote areas of the state such as western and northern Alaska and the Aleutians;
- (2) appropriate discharge response times;
- (3) requirements for personnel and equipment that should be imposed on contingency plan holders;
- (4) appropriate roles for industry and state and local governments in the purchase, ownership, and positioning of discharge response

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efforts.

* Sec. 32. TRANSITIONAL PROVISIONS. (a) AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, do not apply to oil discharge prevention and contingency plans until June 1, 1991. On and after June 1, 1991, a contingency plan must comply with AS 46.04.030(k) - (m), enacted by sec. 10 of this Act, regardless of whether the contingency plan is due for renewal under AS 46.04.030(d), as amended by sec. 9 of this Act.

(b) The amendments to AS 46.04.040, made by secs. 11 - 18 of this Act, do not apply to persons required to show proof of financial responsibility until June 1, 1991. On and after June 1, 1991, proof of financial responsibility must comply with AS 46.04.040, as amended by secs. 11 - 18 of this Act, regardless of whether acceptance of proof of financial responsibility has expired under AS 46.04.040(f), as amended by sec. 16 of this Act.

Eff. 6/27/90

* Sec. 33. This Act takes effect immediately under AS 01.10.070(c).

mit when, in the opinion of the department, modification of the permit is necessary to protect the environment. (Eff. 4/23/77, Register 62)

Authority: AS 46.03.020(10)
AS 46.03.740

18 AAC 75.230. TERMS OF PERMIT. (a) The department will attach terms and conditions to a permit issued under 18 AAC 75.190 which it finds necessary to protect the environment and potentially affected property owners.

(b) Each permit issued under 18 AAC 75.190 is subject to the permittee's stipulation and agreement to immediately cease all permitted activities when served with an accusation to terminate the permit under 18 AAC 75.210, or to immediately modify activities when served with an accusation (or other appropriate notice) to modify the permit under 18 AAC 75.220. (Eff. 4/23/77, Register 62)

Authority: AS 46.03.020(10)
AS 46.03.740

Article 4. Oil Discharge Contingency Plans

Section	Section
305. Application for approval	345. Tank vessel and tank barge requirements
310. (Repealed)	350. (Repealed)
315. Telexed applications and variances	355. Approval criteria
318. Renewals	360. (Repealed)
320. (Repealed)	365. Decisions on contingency plan reviews
325. Contingency plan contents	375. Notification of nonreadiness
330. (Repealed)	385. Discharge exercises
335. Terminal, offshore exploration facility and offshore production facility requirements	390. Proof of contingency plan
340. (Repealed)	395. Definitions for 18 AAC 75.305 — 18 AAC 75.395

18 AAC 75.305. APPLICATION FOR APPROVAL. (a) Application for approval of oil discharge contingency plans required by AS 46.04.030 must be made

- (1) for an oil terminal facility, by the owner or operator;
- (2) for oil tank vessels or oil tank barges by
 - (A) the charterer, if the vessel is chartered by demise;
 - (B) the owner of the vessel or barge, if agents or employees of the owner retain control and responsibility for the operation of the vessel or barge; or
 - (C) in any other case, by the person with primary operational control over the vessel or barge;
- (3) for an offshore exploration or production facility, whether mobile or fixed, by the lease holder.

(b) Applications must be made in writing and contain information including the name, address, and telephone number of the applicant; and

(1) for facilities, the name, location, address, type of facility for which the application is being made, and expected date of commencement of operations; or

(2) for vessels, the vessel's name, official number, country of registry, projected route, and period of operation in state waters.

(c) Applications for approval of an oil discharge contingency plan must be accompanied by two copies of the plan and must be served on the department's regional office with jurisdiction over the operation for which the plan has been prepared, at least 65 days before the applicant initiates operations in the state, or for existing facilities within 180 days after September 9, 1981.

(d) Applicants may employ oil discharge response organizations, cooperative arrangements, cleanup contracts or other arrangements to satisfy the requirements of this chapter and are responsible to ensure that those services are in full compliance with the provisions of this chapter.

(e) Oil discharge contingency plans previously received by the department and still in full effect may be submitted by reference in the application.

(f) Oil discharge contingency plans prepared for purposes other than for this chapter may be submitted to satisfy the requirements of this chapter if they are in full compliance with the provisions of this chapter. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

Editor's notes. — Applications may be submitted to the department's regional offices at the following locations: Southeast Regional Office, P.O. Box 32420, Juneau,

Alaska 99803; Southcentral Regional Office, 3601 C Street, Suite 1350, Anchorage, Alaska 99503; Northern Regional Office, Box 1601, Fairbanks, Alaska 99701.

18 AAC 75.310. CONTINGENCY PLANS. Repealed 9/9/81.

18 AAC 75.315. TELEXED APPLICATIONS AND VARIANCES. (a) The department will, in its discretion, accept telexed applications when unforeseen events prevent the applicant from using the normal written procedure and when the applicant's oil discharge contingency plan has been approved by the department. However, the telexed application must be approved by the department before operations may commence in the state. A written followup application must be submitted and received by the department no later than 10 working days after commencement of operations.

(b) The department will, in its discretion, authorize a variance from the requirement of 18 AAC 75.305 for the preparation and full implementation of oil discharge contingency plans before commencement of operations when it finds that the applicant cannot fully comply with the requirements of 18 AAC 75.325 — 18 AAC 75.355 as a result of unavailability of required information, or delays in delivery of containment, exclusion, removal, or associated equipment beyond the control and without fault of the applicant. The applicant shall submit a letter of request to the department including

(1) a complete copy of the oil discharge contingency plan if completed;

(2) a full explanation of the cause for the delay and the specific aspects of the contingency plan affected by the delay;

(3) a full discussion of actions being taken or contemplated to minimize the delay, including a proposed time schedule for the implementation of any such actions;

(4) the proposed method of oil discharge containment and cleanup during the period of the variance; and

(5) any additional oral or written statements in support of the letter of request for a variance.

(c) The department's authorization of a variance does not relieve the applicant from the obligation to comply with the requirements of AS 46.04.030 to submit a contingency plan that conforms to this chapter, after the variance expires. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.318. RENEWALS. Application for renewal of oil discharge contingency plan approval must be received by the department no later than 65 days before the expiration date of the initial approval and will be treated in the same manner as the initial application, unless the plan remains unchanged from the initial application, in which case it may be incorporated by reference in the renewal application. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.320. TERMINAL REQUIREMENTS. Repealed 9/9/81.

18 AAC 75.325. CONTINGENCY PLAN CONTENTS. (a) An oil discharge contingency plan submitted for approval must be in a form usable as a working plan for oil discharge containment and

cleanup. It must be a carefully thought-out plan, prepared in accordance with accepted cleanup procedures, and which has the full approval of management with the authority to commit the necessary resources to implement the plan fully. Information required by this chapter but not necessary for the direct use of the plan may be submitted separately from the plan.

(b) Oil discharge contingency plans must include at a minimum

(1) the terms, other than financial terms, or a copy, of any contract for oil discharge containment or cleanup, and identification of those persons who, through employment, contract, cooperative arrangement, or otherwise, will be primarily responsible for or substantially support containment and cleanup operations;

(2) a detailed description of the proposed manner of oil discharge containment and cleanup operations for discharges of varying sizes, including the greatest possible discharge that could occur from the vessel or facility;

(3) the name, title, business address, telex number, and business and after-hour telephone number or contact for key personnel who are assigned to essential operations and who are responsible for specified duties in the event of a discharge;

(4) a communications plan to direct and coordinate cleanup personnel;

(5) an estimate of the size, frequency, and location of the type of oil discharge which, based on experience and on an analysis of possible operational mishaps at that type of vessel or facility, is most likely to occur during the lifetime of the vessel or facility and a detailed basis for the estimate;

(6) a description of the proposed means of oil discharge detection, including surveillance schedules, leak detection, observation wells, monitoring systems, and spill-detection instrumentation; if electronic or mechanical instrumentation is employed, detailed specifications, including threshold detection sensitivities and limitations of equipment, must be provided;

(7) a description of procedures for notifying operating personnel, response personnel, the department, and appropriate federal agencies;

(8) in tabular form, the amounts, specifications, limitations, and storage locations for cleanup equipment, such as equipment for containment, exclusion, removal, and lightering sorbants, vehicles, vessels, pumps, skimmers, booms, chemicals, communications devices, portable lighting equipment, storage containers, fenders, hoses, earth moving equipment, diving gear, hand tools, impermeable liners, safety equipment, wildlife-cleaning supplies, and sanitary facilities, either under the direct control of the operator or carrier, or under indirect control by contractual or cooperative arrangement, and the age and condition of the equipment;

(9) a description of procedures for use of chemicals for oil discharge control;

(10) best estimates of response times from the discovery of the discharge to deployment of containment, exclusion, and recovery equipment in areas of operations;

(11) a description of proposed methods and sites for interim and ultimate disposal of removed oil, oil-contaminated material, and other oily wastes, and, for existing sites, the proposal must include a specification of the capacity of the sites and the methods used;

(12) provisions for emergency shutdown of the oil-spill source;

(13) other information reasonably required by the department to ensure that oil-discharge response capability meets the requirements of this chapter.

(c) In addition to the requirements of (a) and (b) of this section, the applicant shall prepare and submit with the contingency plan a simplified manual suitable for field use containing the basic elements of the contingency plan. The manual must be provided to all operating and response personnel. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.330. TANK VESSEL REQUIREMENTS. Repealed 9/9/81.

18 AAC 75.335. TERMINAL, OFFSHORE EXPLORATION FACILITY, AND OFFSHORE PRODUCTION FACILITY REQUIREMENTS. In addition to the requirements of 18 AAC 75.325, operators of terminals, offshore exploration facilities, and offshore production facilities shall include with their contingency plans the following information:

(1) a physical description of the facility, including a plan showing features such as topography; mooring areas; oil transfer locations; pipelines; control stations; location, type, and capacities of fuel and lubrication oil storage; drip pans; and drainage of drip pans; or, for vessels, the vessel's name, official number, country of registry, and a set of the vessel's general arrangement plans;

(2) predictions of discharge movement and spreading, based upon operational patterns and other specific features, such as meteorologic and oceanographic conditions or terrain features;

(3) an identification of sensitive environmental zones in the area of operations which may be affected by oil discharges from those operations such as anadromous fish habitat and reproduction areas, intertidal or other fish reproduction areas, waterfowl nesting and resting areas, intertidal shellfish areas, aquatic mammal habitat,

salt marshes, sandy beaches, and their seasonal patterns of sensitivity;

(4) an identification of areas of public concern which may be affected by an oil discharge from the operations covered by the plan such as water supplies, recreational areas, communities, historical and archeological sites, and boat harbors; and

(5) for offshore exploration and production facilities, a relief-well plan including estimates of time required to obtain, mobilize, rig up, and commence drilling. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.340. APPROVAL CRITERIA. Repealed 9/9/81.

18 AAC 75.345. TANK VESSEL AND TANK BARGE REQUIREMENTS. In addition to the requirements of 18 AAC 75.325, operators of tank vessels or tank barges shall submit with their contingency plans the following information:

(1) the vessel's name, official number, country of registry, and name and address of the owner, charterer, and operator;

(2) a set of the vessel's general arrangement plans including tank capacities, cargo piping (one line diagram), ballast piping (one line diagram), and special towing equipment and fittings if any;

(3) approved loading manual;

(4) a location diagram showing manifold pipe size and capacity of associated drip pans and methods of drainage;

(5) a description of the method of containing discharges from fuel oil tank-vent overflows and fill pipes; and

(6) a description of the method for retention and disposal of oily wastes and bilge slops. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.350. NOTIFICATION OF NONREADINESS. Repealed 9/9/81.

18 AAC 75.355. APPROVAL CRITERIA. After considering the size, complexity, age, geographical location, spill history, spill prevention measures, and other applicable information, the department will use the following criteria in reviewing oil spill contingency plans submitted under 18 AAC 75.325 — 18 AAC 75.345:

(1) applicants must have ready access to sufficient resources to protect environmentally sensitive areas and areas of public concern.

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be prepared to contain, clean up, and mitigate potential oil discharges within the shortest feasible time, using oil discharge containment and cleanup technology capable of effectively containing and removing oil discharges in their areas of operation, and ensure that response personnel are trained in oil discharge containment and cleanup operations and qualified to operate that equipment under expected conditions in those areas of operation;

(2) applicants must demonstrate that they have fully considered the effect of geography, climate and weather as it affects oil discharge containment and cleanup in their areas of operation;

(3) except for liquefied petroleum gas, applicants must maintain in their areas of operation sufficient oil discharge containment and removal equipment to rapidly contain the oil discharge identified in 18 AAC 75.325(b)(5) and remove that discharge within a 48-hour period when adverse conditions do not threaten safety of personnel;

(4) except for liquefied petroleum gas, applicants must provide and maintain exclusion equipment or have the means to protect the areas identified in 18 AAC 75.335(3) and (4); for purposes of establishing minimum capabilities, containment and exclusion equipment will each be considered separately and independently;

(5) exclusion equipment required under (4) of this section must be stored and maintained so that it can be deployed and operational earlier than the minimum predicted time in which the discharge will reach the nearest sensitive environmental zone or areas of public concern;

(6) applicants for tank vessels and tank barges must provide and maintain sufficient lightering and storage capacity to remove and contain the contents of the largest single tank-vessel cargo compartment in not more than 48 hours. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.360. DEFINITIONS FOR 18 AAC 75.310 — 18 AAC 75.360. Repealed 9/9/81.

18 AAC 75.365. DECISIONS ON CONTINGENCY PLAN REVIEWS. (a) Within the time period established by 18 AAC 75.305(c), the department will serve its decision on contingency plan review on the applicant. The decision will include

(1) a written approval if the department determines that an approval should be granted;

(2) a brief summary of the basis for the department's decision when the decision is to deny approval or to grant approval subject to conditions; and

(3) a statement that a person aggrieved by the department's decision may request an adjudicatory hearing under 18 AAC 15.200.

(b) If oil discharge contingency plans submitted to the department are not approved or are conditionally approved, applicants seeking a variance must apply for a variance by letter of request within 10 working days after receipt of the department's decision. The variance request must include

(1) a full discussion of the measures to be taken by the applicant to correct those deficiencies indicated by the department's decision and to bring the oil discharge contingency plan into compliance with the provisions of this chapter;

(2) a proposed time schedule for making the corrections; and

(3) an interim proposal for oil discharge containment and cleanup for the period of the variance. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.375. NOTIFICATION OF NONREADINESS. If any significant equipment specified in a contingency plan becomes non-operational, or is removed from a designated storage location, the responsible operator or carrier shall, within three days, notify the department in writing and provide a schedule for its substitution, repair, or return to service. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

18 AAC 75.385. DISCHARGE EXERCISES. (a) Upon notice by the department, applicants shall conduct an exercise for the purpose of testing the adequacy of the contingency plan and its execution. No more than two exercises will be required of an applicant in any year, unless an exercise demonstrates that the applicant's contingency plan or its execution is inadequate (under criteria established in 18 AAC 75.355), in which case the department will, in its discretion, direct the holding of additional exercises until it is satisfied that the contingency plan and its execution are adequate. The department will give sufficient notice so that the applicant can be at the alert level that would exist during normal oil handling.

(b) Wherever possible, discharge exercises will be coordinated with the U.S. Coast Guard and the U.S. Environmental Protection Agency.

(c) The department will, in its discretion, consider regularly scheduled training exercises as discharge exercises.

(d) Should the department find through a discharge exercise that the applicant is unable to execute the discharge contingency plan

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under criteria established in 18 AAC 75.355, it may rescind or modify approval of the plan in accordance with AS 46.04.030(f). (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

Editor's notes. — Under the authority of AS 44.62.125(b)(6), the regulations attorney has corrected 18 AAC 75.385(d)'s reference to 18 AAC 75.350 to read "18 AAC 75.355," as of Register 110 (July 1989).

18 AAC 75.390. PROOF OF CONTINGENCY PLAN. (a) When operating in Alaska, the operator of a tank vessel or oil barge must have on board the vessel or barge, the original, or a true and authentic photocopy of the original, current contingency plan approved under this chapter.

(b) The owner or operator of an oil terminal facility may not load oil onto, or unload oil from, a tank vessel or oil barge unless the operator of the vessel or barge has

(1) certified to the facility owner or operator, on a form provided by the department, that

(A) the tank vessel or oil barge is operating under a current contingency plan approved under this chapter; and

(B) the original, or a true and authentic photocopy of the original, approved contingency plan is on board the tank vessel or oil barge; and

(2) produced for inspection by the facility owner or operator the original, or a true and authentic photocopy of the original, approved contingency plan, together with a copy of the department's letter of approval.

(c) The owner or operator of an oil terminal facility shall immediately, or on the first department working day after the failure or refusal, report by telephone to the department's nearest district office the failure or refusal of an operator of a tank vessel or oil barge to comply with the requirements of (b) of this section.

(d) The owner or operator of an oil terminal facility shall verify on the certification form received under (b)(1) this section that he or she inspected the contingency plan produced under (b)(2) of this section and found it to be a current plan, approved under this chapter. The facility owner or operator shall then serve the original certification form upon the department within 24 hours after receipt, or on the first department working day after receipt. Service is effective upon personal delivery to the department, or on the date of mailing by certified mail to the department's nearest district office. The owner or operator of an oil terminal facility shall retain, for at least one year, a copy of all forms received under this section.

(e) The terms used in this section have the meaning given to them in AS 46.04.900, except that the term "oil terminal facility" excludes a facility described in AS 46.04.050. "Operator" has the meaning given in AS 46.04.900(12) when used in conjunction with an oil terminal facility; when used in conjunction with a tank vessel or oil barge, "operator" means

(1) the charterer, if the tank vessel or oil barge is chartered by demise;

(2) the owner of the tank vessel or oil barge, if agents or employees of the owner retain control and responsibility for the operation of the tank vessel or oil barge; or

(3) in any other case, the person with primary operational control over the tank vessel or oil barge. (Eff. 8/17/90, Register 115)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.050

AS 46.04.070
AS 46.04.900

18 AAC 75.395. DEFINITIONS FOR 18 AAC 75.305 — 18 AAC 75.395. Unless the context indicates otherwise, in 18 AAC 75.305 — 18 AAC 75.395

(1) "approved loading manual" means the manual including information regarding trim and stability, hullbending moment, and information meeting the requirements of 46 C.F.R. 45.105;

(2) "containment and exclusion equipment" means booms, logs, curtains, and other devices designed or constructed and deployed in order to control, concentrate, and restrict the movement and spreading of oil;

(3) "discharge" means any spilling, leaking, pumping, pouring, sweating, emitting, emptying, or dumping;

(4) "lightering" means pumping or transferring of oil from cargo compartments of tank vessels to another vessel or storage container;

(5) "liquefied petroleum gas" means natural gas converted to a liquid state by pressure and cooling, butane, propane, and other light ends which at 70 degrees F. and atmospheric pressure revert to the gaseous state. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.030
AS 46.04.070

Editor's notes. — For the purposes of this chapter, the following terms are defined in AS 46.04.120: "department"; "off-shore exploration and production facility";

"oil"; "oil barge"; "oil terminal facility"; "operator"; "person"; "tank vessel"; "vessel."

Authority: AS 46.03.020(10) AS 46.03.110
 AS 46.03.090 AS 46.03.330
 AS 46.03.100 AS 46.03.720

CHAPTER 18. COASTAL PROTECTION FUND

Repealed 9/9/81

CHAPTER 20. FINANCIAL RESPONSIBILITY

Section	Section
5. Application for approval	60. (Repealed)
10. (Repealed)	65. Insurance
15. Telexed applications	70. (Repealed)
20. (Repealed)	75. Surety bond
25. Renewals	80. (Repealed)
30. (Repealed)	85. Guaranty
35. Amount and evidence of financial responsibility	90. (Repealed)
40. (Repealed)	95. Service of process
45. Federal Maritime Commission certificates	100. (Repealed)
50. (Repealed)	105. Applicable forms
55. Self-insurance	110. (Repealed)
	900. (Repealed)

18 AAC 20.005. APPLICATION FOR APPROVAL. (a) Applications for approval of proof of financial responsibility must be made as follows:

(1) for an oil terminal facility, by the owner or operator of the facility;

(2) for an oil tank vessel or an oil barge, by

(A) the charterer, if the vessel or barge is chartered by demise;

(B) the owner of the vessel or barge, if the agents or employees of the owner retain control and responsibility for the operation of the vessel or barge;

(C) the person with primary operational control, in any other case;

(3) for an offshore exploration or production facility, whether mobile or fixed, by the lease holder or the operator.

(b) Applicants must furnish the department with documents listed in the "financial responsibility application and checklist" available from the Department of Environmental Conservation. The completed and signed form must be returned to the department at least 65 days before commencement of operations.

(c) If the applicant is an agency of the United States or the State of Alaska, that agency need not submit evidence of financial responsibility but must submit a "financial responsibility application and checklist."

(d) An applicant may submit a consolidated application for approval for more than one vessel, barge, terminal, or offshore exploration or production facility.

(e) An approval may not be transferred from one vessel, barge, terminal, or offshore exploration or production facility to another one or assigned to another person. An attempted transfer or assignment of an approval automatically voids the approval.

(f) Applications must be signed upon oath or affirmation

(1) in the case of corporations, by a duly authorized representative responsible for the overall management of the project or operation, or his designee;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor; and

(4) in the case of a municipal, state, federal, or other public facility, by a duly authorized official or employee. (Eff. 9/9/81, Register 79; am 8/6/87, Register 103)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

Editor's notes. — For the purpose of furnishing applications referred to in this section, the department's mailing address is Department of Environmental Conser-

vation, P.O. Box O, Juneau, Alaska 99811-1800; and the department's office is at 3220 Hospital Drive in Juneau, for hand-delivery.

18 AAC 20.010. CERTIFICATE OF RISK AVOIDANCE. Repealed 9/9/81.

18 AAC 20.015. TELEXED APPLICATIONS. (a) The department will, in its discretion, accept telexed applications when unforeseen events prevent the applicant from using the normal written procedure, but the telexed application must be approved provisionally by the department before operations may commence in the state. A written follow-up application must be submitted and received by the department no later than 10 working days after commencement of operations. Under no circumstances may proof of financial responsibility be pending (for example, an insurance policy not yet in effect) when operations commence. The telex must state that all departmental requirements have been met.

(b) A telexed application must contain the applicant's name, title, and affiliation; name of facility or vessel; and information on the status of each item found in the "financial responsibility application and checklist." (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.020. APPLICATION PROCEDURES. Repealed 9/9/81.

18 AAC 20.025. RENEWALS. (a) An application for renewal of financial responsibility must be received by the department no later than 30 days before the expiration date of the previous approval. An application for renewal must contain the information required for initial applications. However, information provided in the initial application which remains current and unchanged may be incorporated by reference into each section of the new application. When doing so, the applicant must file a new application form and make reference, paragraph by paragraph, to the specific parts of the past application and supporting materials to be incorporated by reference into each section of the new application.

(b) Application for renewal of financial responsibility must be made once a year. An approval becomes effective on July 1 of one year and expires on June 30 of the following year. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.030. RENEWALS. Repealed 9/9/81.

18 AAC 20.035. AMOUNT AND EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) An applicant shall demonstrate financial responsibility to respond to damages for each pollution incident covered by AS 46.04.040(i); the amount of financial responsibility is stated in AS 46.04.040(a)—(c). The required amount of financial responsibility does not increase with increasing numbers of vessels, barges, terminals, or offshore facilities operated by the same applicant.

(b) Each vessel or barge which a carrier operates in the waters of the state and each oil terminal or offshore facility must be specifically covered by an approved form of financial responsibility. Other vessels, barges, or facilities may be added to the coverage at any time during the approval period by submitting a letter addendum listing the additions. If a vessel, barge, terminal, or offshore facility covered by AS 46.04.040—46.04.050 is involved in a discharge of oil, and the department determines that a claim for damages has been or is likely to be presented as a result of the discharge and that payment of the claim will reduce the operator's demonstrated financial responsibility below that required by AS 46.04.040(a)—(c), the department will, in its discretion, direct the operator to demonstrate an additional amount of financial responsibility equal to the amount the department determines may be paid as a result of the claim. If the operator does not demonstrate supplemental financial responsibility within 90 days af-

ter receipt of notification from the department, the operator's approval is automatically suspended. If the operator believes that the department's determination under this subsection is unlawful or excessive, it may request an adjudicatory hearing under 18 AAC 10.200 within 20 days after receipt of notification. Neither the request for nor scheduling of an adjudicatory hearing under this subsection stays the requirements of this subsection for the supplemental coverage.

(c) The applicant has five options for demonstrating financial responsibility: (1) Federal Maritime Commission certificate of financial responsibility, (2) self-insurance, (3) insurance, (4) surety bond, and (5) guaranty; or a combination thereof. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.040. RISK CHARGES. Repealed 9/9/81.

18 AAC 20.045. FEDERAL MARITIME COMMISSION CERTIFICATE. (a) A carrier may prove financial responsibility for tank vessels or barges carrying oil which has been transported through the trans-Alaska pipeline by submitting to the department a certified copy of the Certificate of Financial Responsibility for each vessel or barge obtained from the Federal Maritime Commission pursuant to sec. 204(c) of the Trans-Alaska Pipeline Authorization Act (PL 93-153). The department will approve the certificate as providing proof of financial responsibility under this section if

(1) the insurer of the applicant (if any) is either authorized to sell insurance in the State of Alaska under a certificate of authority issued by the director of the division of insurance of the Department of Commerce and Economic Development, or is an unauthorized insurer listed by the division of insurance as meeting the minimum trust or capital and surplus requirements of AS 21.33.180;

(2) the surety or guarantor of the applicant (if any) is registered to do business in the State of Alaska;

(3) the applicant demonstrates, to the satisfaction of the department, that any liabilities or obligations assumed by the surety, guarantor, or insurer with regard to claims under sec. 204(c) of the Trans-Alaska Pipeline Authorization Act are also assumed with regard to claims under AS 46.04.040(i) or any provisions cited in it, brought in the courts of the State of Alaska; and

(4) the applicant and the insurer, surety, or guarantor abide by the provisions of AS 46.04.040(e) for appointment of an agent for service of process in the state.

(b) Any documents or notice required to be filed with the Federal Maritime Commission concerning modification, termination, limita-

tion, or nonrenewal of insurance, surety or guaranty, or notice of pending claims, must be filed simultaneously with the department.

(c) If a portion of the carrier's fleet of vessels or barges will not be carrying oil which has been transported through the trans-Alaska pipeline, the carrier may prove financial responsibility under this section for vessels carrying trans-Alaska oil, and may prove financial responsibility under 18 AAC 20.055—18 AAC 20.085 for the other vessels or barges. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.050. COMPUTATION OF RISK CHARGES. Repealed 9/9/81.

18 AAC 20.055. SELF-INSURANCE. (a) An applicant demonstrating financial responsibility by self-insurance must maintain, in the United States, working capital and net worth each in an amount equal to the amount required under AS 46.04.040(a)—(c), or a lesser amount necessary to supplement other forms of proof. In determining working capital or net worth, the department will take into consideration all current contractual requirements to which the applicant is bound, and any insurance coverage of the applicant. For the purposes of this subsection, "working capital" means the amount of current assets located in the United States, less all current liabilities; and "net worth" means the amount of all assets located in the United States, less all liabilities. All self-insurers must notify the department within 10 days after the self-insurer knows, or has reason to believe, that the amount of working capital or net worth of the self-insurer falls below the amount required by AS 46.04.040, or the lesser amount necessary to supplement other forms of proof. This evidence of financial responsibility must be supported by the following, which are to be submitted with the application for an approval and supplemented as specified:

- (1) annual audited financial statements for nonconsolidated holdings in the United States for the fiscal year ending immediately before each initial or renewal application certified by an independent certified public accountant;
- (2) a quarterly affidavit attesting that the amounts of working capital and net worth are equal to the amounts required by AS 46.04.040; quarterly affidavits must be received within 30 days after the close of the quarter being attested to;
- (3) instead of an affidavit under (2) of this subsection, a quarterly affidavit showing that sufficient assets or cash flow, other than that which might be damaged as a result of a pollution incident, are

available and which may be liquidated to provide the money necessary to retire a claim for the amount of the self-insurance without placing the self-insurer in an insolvent position; quarterly affidavits must be received within 30 days after the close of the quarter being attested to; and

(4) any additional financial information the department considers necessary in particular cases.

(b) In place of the information required by (a)(1)—(4) of this section, a self-insuring applicant may provide the department with the applicant's Form 10K as filed with the U.S. Securities and Exchange Commission for the fiscal year preceding application or renewal, and each Form 10Q subsequently filed with the commissioner, subject to the following conditions:

(1) if the applicant's fiscal year ended six months or more before initial application, the applicant's Form 10Q for the first quarter of the current fiscal year must also be submitted with the initial application;

(2) if the applicant's Securities and Exchange Commission forms do not specify what portion of the working capital and the net worth are located in the United States, each form must be supplemented by an affidavit from the treasurer or a statement certified by the certified public accountant preparing the form specifying that the working capital and net worth located in the United States are each in an amount equal to the amount of financial responsibility required under AS 46.04.040(a)—(c); and

(3) all 10K and 10Q forms subsequently filed with the Securities and Exchange Commission must be simultaneously provided to the department.

(c) In place of the information required under (a)(1)—(4) and (b) of this section, the self-insuring applicant may file with the department the applicant's Form No. 6 as filed with the Federal Energy Regulatory Commission for each fiscal year, commencing with the fiscal year which ended immediately preceding application.

(d) Affidavits referred to in (a)(2) and (a)(3) of this section must be signed

(1) in the case of corporations, by the treasurer or financial officer;

(2) in the case of a partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor; and

(4) in the case of a municipal, state, federal, or other public facility, by an authorized official or employee. (Eff. 9/9/81, Register 79; am 8/6/87, Register 103)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.060. FINANCIAL RESPONSIBILITY. Repealed 9/9/81.

18 AAC 20.065. INSURANCE. (a) An applicant demonstrating financial responsibility through insurance must provide evidence of insurance issued by an insurer which is either authorized to sell insurance in the State of Alaska under a certificate of authority issued by the director of the division of insurance of the Department of Commerce and Economic Development, or is an unauthorized insurer listed by the division of insurance as meeting the minimum trust or capital and surplus requirements of AS 21.33.180. Evidence of insurance may be provided by acceptable binder, or by a certificate of entry (or insurance), accompanied by pertinent rule books. However, when a binder is submitted, the underlying insurance policy must be provided to the department as soon as possible. A deductible provision in any policy of insurance, binder, or certificate will be acceptable when the applicant shows supplemental coverage for the amount of the deductible by means of other acceptable insurance, surety bond, guaranty, or self-insurance.

(b) If a policy of insurance, certificate (and accompanying rules), or binder is submitted, it must include the following, or substantially similar endorsement: "Any other provision of this policy (or the policy shown by this binder) notwithstanding: (1) this policy insures against any liability the insured may incur under Alaska Statutes 46.04.040(i), or any provision cited in it as a result of an unlawful discharge of oil within or affecting land or water within the territorial jurisdiction of the State of Alaska; however, the insurer's liability does not exceed the limits of coverage set out in Clause [or Article] _____ of this policy, subject to any deductible as specifically set out in Clause [or Article] _____ of this policy (or in this binder, certificate, or book of rules); (2) the insurer agrees that any final judgment against the insured for damages under AS 46.04.040(i) resulting from an unlawful discharge of oil from or by any vessel or facility named in the policy may be enforced or executed directly against the insurer, to the amount of coverage of this policy; the insurer will be bound by such a judgment as if the judgment were against the insurer; any person obtaining such a judgment against the insured is expressly made a third-party beneficiary of this provision; and (3) termination or cancellation of this insurance, excluding expiration by its terms, insofar as it relates to the insured's liability arising from a discharge of oil within or affecting the land and water within the territorial jurisdiction of the State of Alaska, is not effective until 30 days after notice in writing has been posted (prepaid and certified) by the insurer to the insured and to the Alaska Department of Environmental Conservation at its office in Juneau, Alaska; however, the insurer remains liable for claims covered by this insurance

arising by virtue of any event that occurred before the effective date of the termination or cancellation."

(c) In place of the provisions required under (b)(3) of this section, an applicant may submit a "claims made" policy under which coverage is provided for claims based on discharges occurring after any retroactive date but before the end of the policy period, if the claim is first made to the insurer during the policy period or during the extended reporting period; the extended reporting period must be as long as required by the division of insurance, but not less than one year. (Eff. 9/9/81, Register 70; am 8/6/87, Register 103)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.070. TERMS AND CONDITIONS OF CERTIFICATES. Repealed 9/9/81.

18 AAC 20.075. SURETY BOND. An applicant demonstrating financial responsibility through a surety bond shall file the surety bond form set out in 18 AAC 20.105 as Form A, executed by the applicant and the surety with a penal sum in the amount specified in AS 46.04.040(a) — (c), or in a lesser amount necessary to supplement other forms of proof. The surety must be registered to do business in the State of Alaska, possess a current certificate of authority to do business with the United States under 31 CFR § 223.1, and must possess an underwriting limitation at least equal to the amount required under AS 46.04.040(a) — (c) (or in a lesser amount necessary to supplement other forms of proof). (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.080. PROHIBITED TRANSFERS. Repealed 9/9/81.

18 AAC 20.085. GUARANTY. An applicant demonstrating financial responsibility through a guaranty must show that the guarantor meets the working capital and net worth requirements of 18 AAC 20.055 by providing the documentation required by that section. The applicant and the guarantor must submit the guaranty form set out in 18 AAC 20.105 as Form B. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.090. SUSPENSION AND REVOCATION OF CERTIFICATES. Repealed 9/9/81.

18 AAC 20.095. SERVICE OF PROCESS. The applicant shall designate an agent upon whom service of process may be made in this state. The agent must be a resident of this state or a corporation authorized to do business in the state. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the commissioner of the Department of Environmental Conservation. (Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

18 AAC 20.100. SPECIAL RISK CHARGES. Repealed 9/9/81.

18 AAC 20.105. APPLICABLE FORMS. (a) An oil discharge surety bond required by this chapter must be substantially as follows:

FORM A

SURETY CO. BOND NO. _____

OIL DISCHARGE SURETY BOND

_____ of the
[Owner] [Operator]
_____ of _____
[Name of Terminal, Vessel, Barge, or Facility] [Location or home port]
_____, as principal,
and _____
Name of Surety]

a company created and existing under the laws of _____
[State]

_____, and registered to do business in the State of Alaska, as surety, are held and firmly bound unto any holder of a final judgment for damages or civil penalties under Alaska Statute 46.04.040(i), or any provisions cited in it, in the sum of \$_____, for which payment we bind ourselves and our successors and assigns, jointly and severally.

WHEREAS, the principal intends to prove financial responsibility under Title 18, Alaska Administrative Code, Chapter 20, and has elected to file with the Alaska Department of Environmental Conservation a bond that will assure financial responsibility to meet any

liability incurred under Alaska Statute 46.04.040(i) or any provisions cited in it, and

WHEREAS, this bond is written to assure compliance by the principal with the requirements of the statutes and regulations mentioned in the preceding paragraph and inures to the benefit of any holder of a final judgment against the principal as a result of an unlawful discharge of oil under Alaska Statute 46.04.040(i), or any provisions cited in it, from or by any [vessel, barge, or facility] named in the schedule appended to this bond;

THEREFORE, the condition of this obligation is such that, if the principal pays or causes to be paid to a claimant any sum or sums for which the principal may be held fully liable under Alaska Statute 46.04.040(i) or any provisions cited in it, then, to the extent of that payment, this obligation is void; otherwise it remains in full force and effect.

The liability of the surety is not discharged by any payment or succession of payments under this bond until that payment amounts in the aggregate to the amount specified in this bond. The surety's obligation under this bond does not exceed the amount of that penalty.

The surety agrees that any final judgment against the principal for damages under Alaska Statute 46.04.040(i) or any provisions cited in it, arising from an unlawful discharge of oil from or by any [vessel, barge, or facility] specified in the schedule attached to this bond, may be enforced or executed directly against the surety to the penal sum of this bond (less payments previously made). The surety is bound by such a judgment as if the judgment were against the surety.

This bond takes effect _____, 19 ____, at 12:01 a.m. standard time, at the address of the principal as stated in this bond and it continues in force until terminated as provided below.

The principal or the surety may at any time terminate this bond by written notice sent by certified mail to the other party with a copy to the Alaska Department of Environmental Conservation at its office in Juneau, Alaska, the termination to become effective 30 days after actual receipt of the notice by the department. The surety is not liable under this bond in connection with an incident occurring after the termination of this bond, but that termination does not affect the liability of the surety in connection with an incident occurring before the date the termination becomes effective.

The surety designates _____, with offices at _____, Alaska, as the surety's agent for service of process for the purposes of Alaska Statute 46.04.040. If the designated agent cannot be served due to his death, disability, or unavailability, the commissioner of the Alaska Department of Environmental Conservation is considered to be the agent for service of process.

If more than one surety joins in executing this bond, each surety is jointly and severally liable. In witness of this agreement, the principal and surety have executed this instrument on _____, 19 _____

[Please type name of signer under each signature. In the case of a partnership, each partner must sign.]

PRINCIPAL

[Individual Principal or Partner]

[Business Address]

[Individual Principal or Partner]

[Individual Principal or Partner]

[Corporate Principal]

[Business Address]

By

Title

SURETY

[Corporate Surety]

[Business Address]

By

Title

STATE OF _____
COUNTY OF _____

[or _____ JUDICIAL DISTRICT]

On this day _____, known to me to be the person and officer whose name is subscribed to this instrument, appeared before me and acknowledged to me that he executed this instrument as the act of _____, incorporated, for the purposes and consideration expressed in it and in the capacity stated in it.

GIVE _____ BY HAND AND SEAL OF OFFICE, on this

(SEAL)

Notary Public in and for the

State of _____

[or _____ Judicial District]

My Commission Expires: _____

SURETY BOND SCHEDULE

VESSELS, BARGES, OR FACILITIES, AND OPERATORS

VESSEL, BARGE, OR FACILITY	OPERATOR	GROSS TONS AND EITHER HOME PORT OR LOCATION
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(b) A guaranty form regarding oil discharge liability required by this chapter must be substantially as follows:

FORM B

GUARANTY NO. _____

GUARANTY REGARDING OIL
DISCHARGE LIABILITY

1. _____

[Name of Carrier, Terminal, or Facility Owner or Operator] is the [Owner or Operator] of the [vessels, barges, or facilities] specified in the attached schedule, and desires to establish [his] [its] financial responsibility in accordance with 18 Alaska Administrative Code 20.030. The undersigned guarantor guarantees, subject to the provisions of clause 4 of this guaranty, to discharge the operator's legal liability in respect to any claim under Alaska Statute 46.04.040(i) or any provisions cited in that statute, if that legal liability has not been discharged by the operator within 21 days after the claimant has obtained a final judgment against the operator from a court of competent jurisdiction, or has become entitled to payment of a specified sum

by virtue of a compromise settlement agreement made with the operator, with the approval of the guarantor, by which, upon payment of the agreed sum, the operator is to be fully, irrevocably, and unconditionally discharged from all further liability of the claimant with respect to that claim.

2. The guarantor's liability under this guaranty does not exceed \$_____ for any incident or incidents.

3. The guarantor's liability under this guaranty attaches only in relation to incidents giving rise to a cause of action against the operator in respect to a [vessel, barge, or facility] named in the attached schedule under Alaska Statute 46.04.040(i) or any provisions cited in that statute occurring on or after the effective date of this guaranty, which, as to each vessel, barge or facility, is the date that [vessel, barge or facility] is named in the schedule, and before the termination date of this guaranty, which, as to each [vessel, barge or facility], is the date 30 days after the date of mailing (prepaid and certified) to the Alaska Department of Environmental Conservation a written notice that the guarantor has elected to terminate this guaranty, with respect to any such [vessel, barge, or facility] and has so notified the operator.

4. Any claim for damages for which the operator may be liable under the provision of Alaska Statute 46.04.040(i) or any provisions cited in that statute as a result of a discharge of oil by or from any [vessel, barge or facility] named in the attached schedule may be brought directly against the guarantor; however, if such direct claim is made the guarantor is entitled to invoke the rights and defenses permitted by the Alaska Statutes.

5. If, during the effective period of this guaranty, the operator requests that a [vessel, barge or facility] operated by the operator, and not specified in the attached schedule, become subject to this guaranty, and if the guarantor accedes to that request and so notifies the Alaska Department of Environmental Conservation in writing, then that [vessel, barge, or facility] is considered to be one of the [vessels, barges, or facilities] included in the schedule and subject to this guaranty.

6. The guarantor designates _____
_____ with offices at _____

_____, Alaska, as the guarantor's agent in the State of Alaska for service of process for purposes of Alaska Statute 46.04.040 or any provisions cited in that statute. If the designated agent cannot be served due to death, disability, or unavailability, the commissioner of the Alaska Department of Environmental Conservation is considered to be the agent for service of process.

EFFECTIVE DATE: _____

[Month/Day/Year and Place of Execution]

[Type Name of Guarantor]

[Type Address of Guarantor]

BY: _____

[Type Name and Title of Person Signing Above]

[Individual Principal or Partner]

[Business Address]

[Individual Principal or Partner]

[Individual Principal or Partner]

[Individual Principal or Partner]

[Corporate Principal]

[Business Address]

By

Title

STATE OF _____

COUNTY OF _____

[or _____ JUDICIAL DISTRICT]

On this day _____, known to me to be the person and officer whose name is subscribed to this instrument, appeared before me and acknowledged to me that he executed this instrument as the act of _____, incorporated, for the purposes and consideration expressed in it, and in the capacity stated in it.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this
_____, 19____

(SEAL)

Notary Public in and for the
State of _____
[or _____ Judicial District]

My Commission Expires: _____

GUARANTY SCHEDULE

VESSELS, BARGES, OR FACILITIES, AND OPERATORS

VESSEL, BARGE, OR FACILITY	OPERATOR	GROSS TONS AND EITHER HOME PORT OR LOCATION
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(Eff. 9/9/81, Register 79)

Authority: AS 46.03.020
AS 46.04.040
AS 46.04.070

Editor's notes. — For the purposes of this chapter, the following terms are defined in AS 46.04.120: "department"; "off-shore exploration and production facility"; "oil"; "oil barge"; "oil terminal facility"; "operator"; "person"; "tank vessel"; "vessel."

18 AAC 20.110. DECISION ON CERTIFICATE APPLICATIONS. Repealed 9/9/81.

18 AAC 20.900. DEFINITIONS. Repealed 9/9/81.

CHAPTER 25. OIL TERMINAL AND TRANSFER PROCEDURES

Repealed 9/9/81